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Art and Archaeology of Afghanistan

Its Fall and Survival



Edited by

Juliette van Krieken-Pieters

ART AND ARCHAEOLOGY OF AFGHANISTAN

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HANDBUCH DER ORIENTALISTIK

SECTION EIGHT
CENTRAL ASIA

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VOLUME FOURTEEN
ART AND ARCHAEOLOGY OF AFGHANISTAN

ART AND ARCHAEOLOGY OF AFGHANISTAN

Its Fall and Survival

A MULTI-DISCIPLINARY APPROACH

EDITED BY

JULIETTE VAN KRIEKEN-PIETERS

TUTA SUB AEGIDE PALLAS · 1683 ·

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How wonderful that people show interest in our past, it means there is hope for the future.

(quote from an Afghan refugee in Peshawar, 1994)

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PREFACE

Martin de la Bey
The Netherlands' Ambassador to Afghanistan

> . . . the museum is my house . . .

In a 22 October 2005 article in the leading Dutch financial newspaper 'Het Financieele Dagblad', the courage of Omara Khan Massoudi, Director of the Kabul Museum was vividly depicted. The reporter, Chris Reinewald, interviewed Massoudi whilst the latter was on an official visit to the Netherlands during which he received the prestigious Prins Claus Prize for his continuous efforts in promoting and safeguarding Afghanistan's cultural heritage. Massoudi describes the recent rise of his museum as a scholar; he displays a Till Eulenspiegel-like shrewdness whilst explaining how he was able to hide the masterpieces of the Museum during the Taliban years; and he is the perfect negotiator whilst humbly begging for support for the Kabul Museum.

Massoudi is perfectly able to stress the relevance and importance of a well-functioning museum for post-conflict Afghanistan, for building a new, proud conscientiousness reminiscent of the past, and marked for the present and the future. Massoudi who can be looked upon as an indefatigable promotor of his museum and Afghan art in general, has travelled the world with his message of hope and reconstruction. Fear does not appear to be part of his vocabulary. He proudly tells story upon story of how he managed to safeguard the many treasures:

> . . . In Afghanistan everyone lived under constant fear. There were multiple problems everywhere and on all levels. Afghans have a saying that if there is fire somewhere, everything burns down. But what should one be afraid of? Should one give priority to personal or rather to cultural interests? The museum is my house. If I would have perished, it would have been God's will. . . .

Massoudi is truly happy when he recalls the reopening of his museum in September 2004 and the exposition of wooden statues from Nuristan.

Its is probably no coincidence that Massoudi names in this interview only three persons by name, three women who helped him and the museum during the civil war and continue to do so. The three are Nancy Dupree, Carla Grissmann and Juliette (Jet) van Krieken. He also pays tribute to SPACH of which the three were among the founding members:

> . . . we are most grateful to them. Also during the various negotiations to bring an end to the political conflict, SPACH continued to stress the importance of our cultural heritage. Mousouris, a special envoy of the UN got us on UNESCO's agenda . . .

It is against the background of this interview that I am delighted to write the preface to a Volume that so splendidly illustrates the various dilemma's, the archeological aspects, the legal subtleties but that displays above all the utter beauty of the many artefacts that have meanwhile been unearthed, once again showing Afghanistan's special and rich history.

Mrs Juliette van Krieken-Pieters has managed to bring the state of the art and archaeology in this field together in this book. The many photographs enlighten the various contributions, but also tell a story of their own: the dispair and hope, the destruction and construction, and last but not least, the sheer beauty and the positive message for the global village as a whole: Afghan's cultural heritage is worth being treasured. In this respect this Volume makes a strong case indeed.

Martin de la Bey
Kabul, Spring 2006

ACKNOWLEDGEMENTS

To edit a book is not an easy task, as I have experienced during the last year or so. Quite a few people around me have helped and encouraged me to fulfil this rewarding but sometimes tiresome process. Therefore I would like to express my sincere gratitude to the following persons.

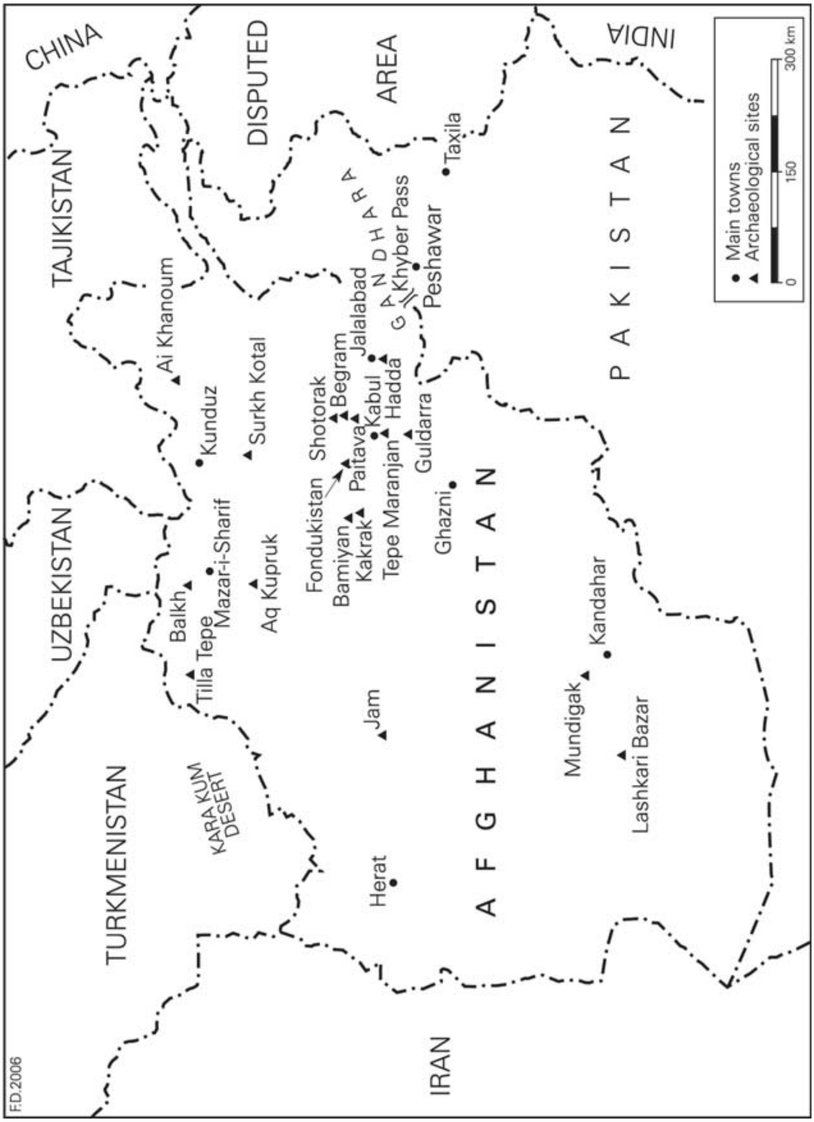
First of all, I would like to thank the contributors to this book. They all succeeded to find time to convey their many experiences, although each of them already had a heavy workload. And a special word of thanks to Nancy Dupree who is a continuous source of inspiration. Missing among the contributors, due to personal circumstances, is Brigitte Neubacher. She did an incredible job for SPACH during the difficult early years, while employed by UNOCHA. I would like to thank her for her immense efforts. In this context I would also like to thank Martin de la Bey, the Dutch Ambassador to the Islamic Republic of Afghanistan, for his foreword. Furthermore, Renee Otto, Patricia Radder and Albert Hoffstädt from Brill Academic Publishers deserve my thanks for their patience, enthusiasm and stimulating words at the right moment.

Without the funding of The Aga Khan Trust for Culture the beautiful colour photographs would not have been possible. I would like to thank Josephine Powell for the wonderful black and white photographs of the objects of the Kabul Museum from the 1960s. Also The Röling Foundation should be mentioned, *inter alia* for its generous support enabling me to embark on a study trip to Afghanistan in the summer of 2004. Several people provided me with logistical aid and accommodated me with 'Afghan' hospitality in Kabul and Bamiyan: Sima Samar, Ana Rodriguez, Jolyon Leslie, Jurjen van der Tas, Bas van Krieken and Rina and Joop Teeuwen. Pete Morris should be mentioned as the quick, incredibly helpful editor, and Neil Brodie from the McDonald Institute for Archaeological Research, Cambridge, for his undeniable efforts. Many thanks to Marloes van der Bijl, the wonderful babysitter, who was prepared to work many hours overtime in taking care of the bibliography in her precise, warm and accommodating manner. I want to mention some dear friends that have helped me by either encouraging words or silent

patience in the last difficult months. Thank you so much Pim Mol, Jennifer Goodway and Aliet Smits. Pim a special thanks for your help with the photographs at the end. For giving me the silence to work I want to thank the Brothers of the Abdij te Zundert, and Alina Esseboom, and especially my dear parents that during their sorrowful time have provided me with a hospitable 'monk's hide-away' at their warm home.

Finally, I want to thank my own wonderful family with all my heart. My dear kids, Diederik, Katrien and Sebastiaan who had to take care of themselves more than they were used to and wanted to and who still gave their mother the necessary energy with their many hugs. Diederik should especially be mentioned for helping me out with all the computer problems. And last of all my dearest husband Peter, who, despite his numerous other activities, provided me with his tremendous help, knowledge and positive attitude and who gave me the strength to finalize this challenging, yet rewarding project.

Juliette van Krieken-Pieters
Oegstgeest/Vientiane, Spring 2006



CHINA
TAJIKISTAN
DISPUTED
AREA
INDIA
UZBEKISTAN
TURKMENISTAN
KARA KUM DESERT
IRAN
AFGHANISTAN
PAKISTAN
GANDHARA
Ai Khanoum
Kunduz
Surkh Kotal
Balkh
Tilla Tepe
Mazar-i-Sharif
Aq Kupruk
Jam
Herat
Fondukistan
Shotorak
Begram
Jalalabad
Bamiyan
Kakrak
Paitava
Kabul
Hadda
Tepe Maranjan
Guldarra
Khyber Pass
Peshawar
Taxila
Ghazni
Kandahar
Mundigak
Lashkari Bazar
Main towns
Archaeological sites
0
150
300 km
F.D.2006

INTRODUCTION

Juliette van Krieken-Pieters

This Volume is first and foremost a hommage to all who have devoted time and energy, often with immense efforts under very harsh and dangerous circumstances, towards the same cause: to preserve, to the greatest extent possible, the rich cultural heritage of Afghanistan.

During the last couple of decades Afghanistan has faced exceptional challenges. Not only did it fall victim to war caused by an occupying force, but upon the occupier's departure it was also subjected to civil wars of various kinds. Moreover, its cultural heritage suffered tremendously. Monuments were damaged by attacks and looted as a result, most notably the National Museum of Afghanistan, better known as the Kabul Museum.[1] Furthermore, many monuments were neglected because of a lack of attention or funds. Besides that, illegal excavations and the looting of already excavated sites took and still takes part on a large scale.

Many were aware of what was going on and they did try to prevent the worse from taking place. However, what was really an awakening call for the world at large was the destruction of the Buddhas of Bamiyan in March 2001. Suddenly, the fate of Afghanistan's cultural heritage occupied centre stage.[2] The frustration which emanated from not being able to prevent the Taliban rulers from carrying out their wrongdoing was widespread and this was irrespective of cultural or religious divides. Monuments that had survived for 1500 years were destroyed in a matter of days. The utterly destructive

[1] The official name of the museum is the National Museum of Afghanistan. In this book, however, I have chosen to refer to the museum by its better known names 'the Kabul Museum' or 'the National Museum'.

[2] An illustration of this can be found in the way in which Washington D.C. received President Karzai, May 23, 2005. A special event was organized by the State Department, the National Endowment for the Humanities and the Smithsonian Institution's Freer and Sackler galeries. There was great interest on the part of many museum officials, who all indicated that they would be more than happy to host a travelling exhibition from the Kabul Museum.

side of the Taliban regime and the role of Osama bin Laden and al-Qaeda became apparent on September 11th, 2001, a mere six months after the destruction of the Buddhas.

Following the autumn 2001 events, Afghanistan became an oasis for journalists and others to pen their spectacular stories. The positive outcome of this development is that the knowledge of Afghanistan's history has increased enormously. But the other side of the coin is the fact that for many people it seemed as if Afghanistan, from a cultural point of view, had almost ceased to exist. Yet, many positive developments can be noted.[3]

It is in this context that the idea emerged to compile a Volume focusing on Afghanistan's cultural heritage and to bring together the available experiences and knowledge from various parts of the globe. Indeed, in-depth knowledge is fairly scattered among many different persons and organizations. By bringing that widespread knowledge and experience together in one Volume might benefit all those involved and will in particular give relative outsiders the unique opportunity to gain a structured insight into the matter, so as to form a somewhat more balanced opinion and to be able to extract the rights and wrongs in the field of the protection of Afghanistan's cultural heritage.

This aim seems to be somewhat easier than it actually is. Also in this field the aid world is a complex one. Many (short-term) projects have been launched, with different goals, by various states, organizations and persons with sometimes minimum and sometimes larger financial support. As a result, many projects are being commenced, but without an overall masterplan. Bridges need to be built between the many players and stakeholders involved, between the various views and opinions, between archaeologists and lawyers, and between people actually digging, on the one hand, and organizations like UNESCO on the other.

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[3] F.e. Afghanistan's acceptance of the 1970 Unesco Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property on September 8, 2005. It also accessed the 1995 Unidroit Convention on Stolen or Illegally Exported Cultural Objects on September 23, 2005. This Convention did enter into force for Afghanistan on March 1st 2006. Note also the discovery of a Sassanid rock relief at Shamarq, Baghlan, in 2003, see http://spach.info/Report%20for%20dissemenation.pdf and Plates 61a and 61b.

The journey, though eventful, proved to be a satisfying one, thanks to all the support and encouragement along the road. The result has brought together people from different disciplines which adds to the many facets of the issue concerned.

The purpose of this book is threefold:

First of all, to provide an overview of the diversity of activities undertaken by so many organizations in the cultural heritage field in Afghanistan.

Secondly, to change the public opinion into a more positive one, by illustrating that much more has been preserved in Afghanistan than expected.

The situation in Afghanistan is not new: all over the world and over many centuries monuments have been deliberately destroyed and objects have been taken as war booty or taken for profit. However, the way in which Afghanistan's culture has been suffering from unceasing looting, destruction and neglect as well as ways to prevent or resolve this situation are quite exceptional.

Therefore, the third purpose of this book is also to serve as an example for future generations which will surely face some of the problems experienced in the Afghan situation.

The book is divided into four parts.

In Part I articles have been compiled that mainly deal with the efforts and the many different ways in which cultural heritage in Afghanistan has been preserved and the problems surrounding these activities.

Part II deals with more specific projects, focusing on a particular period in Afghanistan's history and showing what tremendous work is currently being done.

In Part III legal issues focusing on Afghanistan are discussed.

Part IV, finally, is used for putting the Afghan case in a global context. This often leads to highlighting the dilemmas and discussions among those who, at the end of the day, are all striving for the same thing: the survival and the proper keeping of the artefacts and monuments involved.

Hereunder an outline and the essence of each contribution is given.

The first contribution to this book has been written by **Ana Rosa Rodríguez García and Brendan Cassar**, both of whom are working for the SPACH office in Kabul. SPACH was established in September 1994 in Islamabad after the devastating fate of the Kabul Museum became known. In their contribution they mention the challenging aspects of preserving the heritage of Afghanistan. They point to the many activities which SPACH undertook during the difficult years of the civil war and under the Taliban regime. They thereby clearly emphasize that SPACH's work is still relevant and in several respects this is even more so than in the time during which it was founded. Funding for the purpose of renovating the Museum, and training its staff, as well as the restoration of monuments and taking action against illicit excavations is badly needed. Their article emphasizes once more how thankful we should be that certain people are prepared to work in an environment that is so demanding.

Warwick Ball, an archaeologist who worked in Afghanistan from 1972–1981, gives an overview of the destructive and constructive developments in the archaeological field from the invasion by the Russians in 1979 up until now. He emphasizes the fact that the Taliban regime is not the only one to blame for the decades of decay and looting. Ball mentions the fact that many discoveries have taken place during this time of war. Furthermore, he illustrates to what extent researchers have been able to pause for thought in order to be able to finally study their excavation results: the number of publications during the years of fighting was quite amazing.

Christian Manhart, an art historian and archaeologist at UNESCO's cultural heritage division, has for a number of years been responsible for the preservation of Afghanistan's cultural heritage. He describes the role of UNESCO as the coordinating body for actions to safeguard Afghanistan's cultural heritage. Apart from concrete actions like the renovation of the Kabul Museum, and the rather spectacular ways of safeguarding the sites of Jam, Herat and Bamiyan, UNESCO plays a role in the implementation of international legal instruments which are of pivotal importance in the fight against illegal trade and the possibility to place the perpetrators on trial. He mentions the fact that, finally, after 1500 years, the dates of the Bamiyan Buddhas have been established, the Small Buddha from

the early sixth century A.D. and the Large Buddha from the mid-sixth century A.D. The mural paintings date from between the late fifth and the early ninth century A.D.

Carla Grissmann describes in great detail the turbulent history of the Kabul Museum. In her account of packing and unpacking the museum's collection[4] under the most dramatic of circumstances, she modestly does not mention a single word about her own role in this, although she has been seriously involved with the museum since the early 1970s. One should keep in mind that her description of the activities concerned is based on her very own experiences. Furthermore, she is one of the few persons who emphasize the devotion of the Afghan staff who have selflessly and often creatively, under very dangerous, difficult and stressful circumstances, adhered to their goal of safeguarding what was left of their national collection. This was all the more admirable because those involved had to keep silent as to where the key items had been stored, whereas, on the other hand, they also had to suppress the urge to check on these same items from time to time.

Only in the course of 2004 did it become clear that most of the priceless objects were in fact still intact, including the spectacular Tilla Tepe Hoard.

Nancy Hatch Dupree is in many respects a renowned expert on the culture of Afghanistan. She is so embedded in Afghan society that she is also known as 'the Grandmother of the Afghans'. Her involvement with Afghanistan's cultural heritage goes back several decennia. Her catalogue on the National Museum in Kabul (1974) became an even more cherished and precious item after the looting of the museum in 1993. She was and still is one of the most inspiring members of SPACH. In her contribution she describes the numerous prehistoric archaeological finds which have been found in the Afghan region. Many of the precious items were excavated by her late husband, Louis Dupree, one of Afghanistan's most prominent archaeologists.

[4] In this sensational, but low-key account, the forced removal of objects between 1979–1980 is one of the best kept secrets concerning the Museum's history.

Furthermore, she unravels the many problems which Afghanistan is facing with regard to the protection of sites, problems which have in fact been present since the 1960s, indicating how alarming the situation actually is. Although she focuses mainly on prehistoric sites, many of the difficulties can be extended to sites of all periods. Her recommendations, especially those focusing on the need to make people aware by spreading information, amount to a major challenge.

Viktor Sarianidi is the name associated with the great Afghan archaeological treasure of Tilla Tepe, excavated just before the Russians invaded Afghanistan. The recovery of this Bactrian Gold is one of the success stories in the history of the protection of Afghanistan's cultural heritage. For this Volume to be able to include an in-depth description of one of Mr Sarianidi's latest discoveries in South-East Turkmenistan, close to the Afghan border, should be considered as a real bonus. The prehistoric finds in this area, ancient Margiana, are so much connected to the findings of the same period in Bactria, part of which is now northern modern Afghanistan, that this culture is described as the Bactria-Margiana Archaeological Complex (BMAC). It makes one increasingly aware of the great loss of information as a result of the intense looting of artefacts in Afghanistan. On the other hand, the fact that so much probably corresponding information has been obtained at the other side of the modern border is an encouraging thought.

One of the specialties of this Volume is the rich amount of exclusive photographs, both in black and white and in colour. Therefore, the participation of **Gerda Theuns-de Boer and Ellen M. Raven** is very much welcomed. The impetus for their contribution is the newly restored Gandhara album currently in the possession of the Kern Institute of Leiden University, the Netherlands. This album contains the oldest corpus of photographic prints of Gandharan art in the world. The photographs are not only unique because of their age, taken between 1872 and 1896, but they also give an unparalleled record of artefacts which were excavated during a certain period and brought together for one collection of photographs, thereafter to be scattered all over the world, sometimes without any known provenance.

Both the context of Gandharan art as part of the Kushana realm and the beginning of Gandharan archaeology are highlighted. Further-

more, several photographs have been richly described. This photographic evidence could provide information, currently lost by war, about this intriguing art 'on the Indo-Afghan border'.

An expert in the field of the Buddhas of Bamiyan and still heavily involved is **Kosaku Maeda**. Since the 1960s Professor Maeda has been researching the mural paintings in Bamiyan. At this moment in time he is in charge of a Japanese expert group from the National Research Institute for Cultural Properties (NRICP). This group has been given the task of collecting all the fragments of mural paintings and protecting them. Furthermore, they have prepared a master-plan for Bamiyan. In this contribution the beautiful valley, its history and its monuments and paintings are lyrically described. The intricate concept of the mural paintings has been explained in detail referring to Buddhist, Hellenistic and Zoroastrian elements. His beautiful photographs only add to this contribution that was so carefully composed.

Zemaryalai Tarzi and his daughter **Nadia Tarzi** are two examples of Afghans living abroad, who are (still) very much involved in the preservation of Afghanistan's cultural heritage. Zemaryalai Tarzi was one of the leading archaeologists in Afghanistan before the invasion of the Soviets, and as such was the Director of the Archaeological Institute in Kabul. After many years in exile he could finally return to his beloved country to start new excavations. Tarzi on Tarzi consists of three parts. Firstly, an outline of the archaeological history is given. Secondly, the Association for the Protection of Afghan Archaeology (APAA), founded by Nadia Tarzi in 2003, is described. Thirdly, the role of Zemaryalai Tarzi as the Director of the Bamiyan Survey and Excavation Campaign and his search for the third Buddha is outlined, and several of his latest conclusions are included.

The contribution by **David Thomas and Alison Gascoigne** is very informative. The two archaeologists form part of a multidisciplined team (directed by Thomas) which is investigating the looting at Jam, as part of the Minaret of Jam Archaeological Project. Not only historical and archaeological items are discussed, but also the problems which archaeologists may face in Afghanistan concerning the extremely difficult and barely accessible terrain, and therefore the use of the newest technologies. Of relevance is also the description

of the contacts with the local population who can provide important information. To stimulate the efforts of the local people to stop the looting of the site, programmes for local education and development aid are being developed by the Project team. Projects like this, incorporating so many elements that are pivotal to the success of renewed research in Afghanistan, are more than encouraging.

Jolyon Leslie, an architect, has been very actively involved in the region since 1989. In 1994, Habitat, the UN organization he worked for, at that early stage built a roof to protect the remains of the Museum. He is currently the head of the Historic Cities Support Programme in Kabul, an organization which operates under the Aga Khan Trust for Culture. Leslie describes two projects relating to important Islamic monuments in Kabul: Baghe Babur and the mausoleum of Timur Shah, in which archaeological research, historical surveys, restoration, maintenance and even community work and the relationship of the monuments with the environment are completely integrated. This admirable way of working together towards a common goal and even looking outside one's immediate boundaries is worth being taken into consideration as an example for other organizations.

As the head of the Legal Division of UNESCO, **Lyndel V. Prott** had the difficult task to decide, within the given parameters of UNESCO, on the legal aspects of several rescue operations in Afghanistan. She explains the possibilities and complications concerning the protection of cultural movables from Afghanistan. Especially during the 1990s the danger of cultural property being destroyed generally increased because of ethnic clashes, in which cultural manifestations, like history, religion or thought, became especially vulnerable. The emphasis on the importance of certain aspects of cultural heritage could make it even more vulnerable to destruction or looting. UNESCO's experiment of recognizing temporary 'safe havens' for Afghanistan outside the country was a major breakthrough and should be considered as an example of the developments taking place in the international management of cultural movables. But as is so often the case in everyday life, the final outcome has to be awaited. Again emphasized are the great results of secret actions by local people providing for a local 'safe haven'.

In the **Van Krieken-Pieters** contribution various topics are addressed. First, a brief historical background is provided. Second, several important dilemmas that came to the fore during the years of fighting are discussed: the two sides of awareness-building, the hypothetical restoration of the Buddhas of Bamiyan, and the 'safe haven' concept. If we want to turn the destruction of Afghanistan's art and archaeology into something constructive, then it is necessary to discuss specific issues in a global context, in order to be able to prevent similar calamaties in the future.

Someone who has totally devoted himself to an issue with which he only became acquaintanced some four years ago is **Atle Omland**. Since that time he has been fighting for the possible return of Buddhist manuscripts to Afghanistan from the Schøyen Collection in Norway. Tirelessly he and his colleague Christopher Prescott have tried to convince the authorities and researchers that Schøyen's ownership claim concerning these manuscripts is manifestly unjust. In order to discuss this ownership claim Omland elaborates on the various arguments often applied in cultural property controversies: rescue, world heritage, scholarly access, and means-end arguments. Interesting is the fact that researchers have changed their views during the debate which became a national one. At the beginning researchers were not at all interested in the fact that they were studying material which had been obtained under dubious circumstances. Later on, an Ethics Committee became involved. The overall outcome is that part of the collection has recently been returned to the Afghan government.

One of the important issues regarding the protection of cultural objects in a time of war is that of sanctions and the actual prosecution of the alleged culprits. **Francesco Francioni and Federico Lenzerini** discuss this highly important issue in their chapter with respect to the destruction of the Buddhas of Bamiyan.

It is believed that when the international community takes this aspect of the law of war seriously, the responsibility of the delinquent State and the prosecution of the offender should be considered an essential part of efforts to (a) increase awareness of the fact that destroying cultural objects entails international responsibility and (b) that the culprits will face prosecution and criminal liability. For Afghanistan's past and future—and not Afghanistan's alone—it is therefore of quintessential relevance to see how international law in

general, and a court like the International Criminal Tribunal for the former Yugoslavia in particular, have dealt with this issue. This is even more relevant now that it appears that the commander in charge of the destruction of the Buddhas of Bamiyan has been elected to parliament, in the autumn of 2005.[5]

The immense problem of looting, theft and the smuggling of the cultural heritage of Afghanistan and its neighbouring countries is put into perspective by **Jos van Beurden** who discusses this problem on a global level. The focus is on countries which have also faced violent conflicts or which are for other reasons unable to protect their art and other cultural treasures. An overview is given of the magnitude of the problem and the underlying factors, illustrated with an overwhelming number of examples. The impact of globalization on this issue is also discussed. The possibility of halting the damage does exist, as is well exemplified by the success story of the temple complex of Angkor Wat in Cambodia. In that case several unorthodox methods have been used. The author distinguishes five types of solutions.

Kurt Siehr sharply analyzes the complicated and often discussed subject of 'safe havens.' This important issue came to the fore in recent Afghan history both in connection with the controversial buying of looted artefacts from the Kabul Museum[6] and the possible evacuation of objects from that Museum, with the intention being to return the items when the situation would become stable. In the first part he clearly explains the different circumstances in which 'safe havens' are needed, in the second part the solutions to the problem. The Afghanistan Museum in Bubendorf, Switzerland, ('Afghanistan Museum in Exile'), serves as his major example. The recently enacted Swiss Federal Act of 2003 on the International Transfer of Cultural Property, and its Regulations of 2005, contains so many provisions focusing on the 'safe haven' concept that it should be followed by other countries. It seems to be coincidental, but is it?

[5] See 'Official Linked to blowing up buddhas is elected', Associated Press in Kabul, Wednesday October 19, 2005, *The Guardian*, available at <http://www.guardian.co.uk/afghanistan/story/0,1284,1595447,00.html> (last visited on 10 November 2005).

[6] See the article by Van Krieken, chapter 13.

An overall problem concerning the protection of cultural heritage is the almost impossible desire to keep it for eternity. Crystal clear is the fact that all around us every day cultural heritage is being threatened in many ways. **Fabio Maniscalco** has taken it upon himself to systemize the numerous threats to cultural heritage in the event of armed conflict and the result is a checklist that could be used for many purposes. To prevent possible threats in the future could be one such purpose. This article is yet another addition to his already impressive list of articles on this issue and testifies to his great dedication to this subject.

Concluding Remarks

The various descriptions, records and ideas provide an overview of the many activities that have taken place and will continue to take place to promote the preservation of Afghanistan's cultural heritage.[7] All actors and activities deserve to occupy centre stage. All are acting differently, but the goals are very much the same. All in all, these records by people who are devoted to their respective subjects will hopefully inspire researchers, interested individuals, organizations and also governments. Through proper cooperation and coordination the people of Afghanistan can be given the aid and expertise that they so badly need and deserve. Fairly indicative in this context is the fact that in September 2005 a bill was presented to the U.S. House of Representatives which would allow the U.S. President to impose emergency protection for antiquities illegally excavated and exported from Afghanistan.[8] Indeed, the lessons learned in Afghanistan should be globally disseminated and necessary action should be taken. What happened to Afghanistan can happen elsewhere.

[7] See also Annex II with the Afghan Law on the Preservation of Historical and Cultural Heritage.

[8] It concerns H.R. 915, 'A Bill to Authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan', part of the 'Miscellaneous Tariffs Bill'. The fate of the Bill was unknown when this Volume was published.

PART ONE

AFGHANISTAN'S CULTURAL HERITAGE PROTECTION IN GENERAL

CHAPTER ONE

THE SOCIETY FOR THE PRESERVATION OF AFGHANISTAN'S CULTURAL HERITAGE: AN OVERVIEW OF ACTIVITIES SINCE 1994

Brendan Cassar and Ana Rosa Rodríguez García

The Society for the Preservation of Afghanistan's Cultural Heritage (SPACH) is an organization specifically concerned with the preservation of Afghanistan's cultural heritage, and one of the few such organizations currently working in Afghanistan. SPACH has focused its attention on the sphere of Afghanistan's material heritage, advocating for the role that this particular facet of the national identity can play in peace, development and nation-building. SPACH has been predominately active in the areas of supporting the National Museum of Afghanistan (also known as the Kabul Museum) and preserving its collections, advocacy and awareness-raising with regard to the plight of cultural heritage in Afghanistan in general and in relation to specific sites of cultural significance, and in field surveys and emergency conservation works on endangered monuments and sites. These endeavours have taken place against the backdrop of the aftermath of the Soviet invasion, during the devastating civil wars and under successive Afghan regimes, some more hostile to cultural heritage matters than others. Since the end of the civil war and the fall of the Taliban government, SPACH has continued its work in Afghanistan in a shifting socio-political context, facing some new issues related to the reconstruction process on the one hand, and some familiar and ongoing problems that are no less challenging in the current environment, on the other.

Indeed, cultural heritage in Afghanistan is perhaps as much under threat in the current climate as it was when SPACH was created in 1994, despite the fact that this was a time when the civil war raged unabated in major parts of the country. This current situation is due to the overlap and interaction of several extremely complex and ongoing social and developmental factors, such as the relative isolation of communities, the ongoing provincial lawlessness, the rapid pace

of development and reconstruction, as well as the lack of coordination, education, financial and human resources.

Historic and Contemporary Factors of Cultural Heritage in Afghanistan

Broadly speaking, there is one central issue that makes endeavours in the preservation of cultural heritage in Afghanistan extremely difficult, while it may also be a key factor in why there is so much extant archaeology and monumental architecture throughout the country. It is the region's geography—high mountain ranges, isolated valleys and arid zones—and a lack of infrastructure that makes access to particular areas impossible during the winter months or generally difficult throughout the year. This relative isolation has historically inhibited development in the region which has protected traditional forms of architecture, historic buildings and archaeological sites from the often destructive forces of modernization. Nonetheless, a plethora of isolated communities with sites of historical or archaeological significance restricts our ability to monitor, conserve, protect and carry out further research. The lack of regional infrastructure makes expeditions more complicated than they would otherwise be and also raises many logistical problems. Leading on from this point there are three main areas of difficulty which we face in preserving cultural heritage in Afghanistan.

Firstly, lawlessness, intermittent factional and anti-governmental hostilities continue in provinces where historical monuments and archaeological sites of world significance are situated. The threat to these sites comes from increasing looting, vandalism, neglect, and occasional military action. These hostilities impact negatively on the social and economic stability of communities and the ability of government and non-governmental organizations to deliver development projects to those regions. Thus, many sensitive archaeological sites remain virtually beyond the scope of monitoring and protection. It also goes without saying that any newly conceived research projects and excavation activities in such areas become virtually impossible and unsustainable over time—security and access to a site cannot be guaranteed from one year to the next—thus giving looters a free reign to destroy significant archaeology.

Secondly, the rapid pace of postwar development and reconstruction in Afghanistan has led to the authorities, the private sector, and

some international NGOs endorsing and pursuing construction projects with scant regard for the heritage of particular sites, or for heritage values in general. A prime example of this is the debacle in the Musalla Complex in Herat that saw the widening of a road to carry heavy traffic through the endangered minarets of the Sultan Husain Baiqara Madrassa and the destruction of the mausoleum of Ali Sheer Nawaii for a new monument completely at odds with the Timurid architecture of the site. It is also often the case that mistakes like this are made simply through a lack of knowledge and information and the absence of coordinated activities. There are so many organizations and interests working in development throughout the country, from the military to local and international NGOs, that it is extremely difficult to know where potentially damaging activities have or are taking place until sometime after the event. Another aspect to this problem is the various well-intentioned donors who have provided funds to construction companies to restore buildings of historical significance for local communities, but with neither party employing the necessary skills or experience to execute the projects satisfactorily.

Thirdly, there are multifaceted social issues that compound the problem, both direct and indirect consequences of several decades of war and social upheaval. A whole generation of Afghans, for instance, were largely deprived of an education that encompassed knowledge and respect for the cultural heritage of their homeland. For these people, refugees and the ongoing Afghan migration, the connection between identity and history was fragmented or bound to notions of political, ethnic and tribal affiliation in the more immediate context of war, rather than in a sense of national unity derived from a universally-owned heritage and history. On the contrary, certain monuments or sites were associated too directly with one ethnic group, tribe or region, and thus could become prime targets for destruction as a way of harming a particular community, or as they are now, caught up in the politics of economy and development as communities struggle to establish themselves in a newly emerging political equilibrium. This set of circumstances impacts directly on the allocation of scarce resources in the restoration of historical monuments in particular communities and not in others, while it should rather depend on an objective list of priorities and needs.

On another level, the outflow of Afghans has deprived and continues to deprive Afghanistan of necessary skills and expertise that

could contribute to the reconstruction of the cultural heritage sector in general. Many Afghans with such expertise in the various related fields of cultural heritage have yet to return and contribute to the reconstruction process in Afghanistan. Many of them will perhaps never return. Quite simply, the problem results from the fact that there are not the same incentives for people in this sector as there are in others where returnees can earn large sums of money in advisory roles to the government. There are only a very limited number of jobs available in the cultural heritage sector, reflecting its proportion of development funding, and the relevant Ministry has no resources to employ such people in any case.

Other social factors are the direct result of abject poverty in communities throughout the provinces, created by the war and drought. These communities can be either rural or urban and have few potential sources of income other than the fact that they happen to be in the vicinity of an ancient settlement rich in archaeological materials. Depressed social conditions in communities scattered throughout the nation naturally makes it more attractive to excavate artefacts to meet the demands of the worldwide market for stolen or looted antiquities. Nonetheless, villagers who provide the labour for such illicit activities receive merely a few dollars a day for their efforts while the profits increase significantly the higher up the chain one goes. These factors work in conjunction with mere opportunism on the part of antiquities dealers, warlords and middlemen who take advantage of impoverished villagers on the one hand, and the impossibility of protecting widely dispersed archaeological sites from theft on the other.[1]

Arguably, the perception of the threat to cultural heritage in Afghanistan has shifted in recent years to a focus on the looting of archaeological sites as the key issue.[2] For many the threat to Afghanistan's cultural heritage became acute in the early 1990s with the looting and destruction of the National Museum, while for others it culminated in 2001 when the international community witnessed the destruction of the Buddhas of Bamiyan. Notwithstanding the impor-

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[1] See for a worldwide description of this problem Van Beurden in this Volume, chapter 16.

[2] Even the survey of looted sites can become the main archaeological assignment for archaeologists, see Thomas & Gascoigne in this Volume, chapter 10, on looting around the Minaret of Jam.

tance of these events, the danger to Afghanistan's cultural heritage has grown steadily over the past few years as evidenced by an increase in the looting and destruction of significant sites in virtually every province of the country.

Finally, the volume of money, expertise and will required to adequately preserve cultural heritage in Afghanistan far outweighs the commitment of the international community at present. However, it is also a question of cultural heritage being low on the list of development priorities in a country with one of the lowest standards of living in the world. Therefore, the challenge for organizations working in the heritage sector in Afghanistan is to raise awareness as to the greater role that cultural heritage can play in peace and development and to combine their projects and objectives with broader goals that address a wider range of development issues, such as poverty, vocational training and education.

SPACH as an organization today finds itself in quite similar circumstances and pursuing similar objectives as it did when it was created in Pakistan in 1994 during the civil war, amid a growing realization and concern for the desperate plight of Afghanistan's significant sites, monuments, and artefacts, and their relation to Afghanistan's historical and cultural identity. Nonetheless, SPACH and other organizations, expatriate and local individuals, have worked with no small measure of success to improve the situation over the years. What follows is an attempt to provide some details of the work of SPACH during the period and to outline the cultural and political context in which those activities have taken place.

SPACH and the National Museum of Afghanistan (the Kabul Museum)

One event in particular that brought the founders of SPACH together in order to create a focal point for concerns about the plight of cultural heritage in Afghanistan was the looting of the National Museum in 1993. Principally, through the efforts of Nancy Dupree, Sotirios Mousouris (the UN Special Representative to Afghanistan in 1994), several professionals and concerned individuals closely linked to the Museum, including Jolyon Leslie, Najibullah Popal (the then Director of the Museum), Ambassador Pierre Lafrance, Carla Grissmann, Brigitte Neubacher and Juliette van Krieken, this Society was created initially to try to stem the tide of looting and destruction suffered

by the Museum. From its inception, SPACH was mainly focused on advocacy among those who could use their resources (money, negotiating position, political influence) to support this objective. In particular the major initial donors included the governments of Cyprus, the Netherlands, Norway and Portugal. More recently, SPACH has received support for this and other objectives from the governments of Greece, Italy, the Netherlands, Germany and the United States, and from UNESCO, the National Geographic Society and the Swiss Agency for Development and Cooperation.

Background to the Destruction of the National Museum

The National Museum itself seems initially to have been a victim of circumstance resulting from its location outside the city of Kabul, and then later to fall victim to more overt, organized and targeted theft. It had housed some highly significant artefacts from the history and archaeology of Central Asia, from the Palaeolithic up to the Islamic period.[3] It is situated in a wide open plain on the outskirts of Kabul city in Darulaman, a few miles south of the heart of the city. The relative isolation of Darulaman and the strategic hills that ring this part of the city led to it becoming a frontline between combatants fighting for the capital. The Museum itself was taken over by the Ministry of Defence and at various times the line dividing the warring parties could even be drawn at its doorstep. As a result, during the 1990s the Museum and its collections suffered from an onslaught of rocket fire, grenades and assault rifles, ultimately resulting in important pieces of Afghanistan's and the world's cultural heritage being either obliterated or scurried away to the antiquities markets of Pakistan where they were disseminated to wealthy buyers on the world market and potentially lost from public view forever. These events were a highly visible and symbolic manifestation of a threat to the cultural heritage of Afghanistan that had been growing since the Soviet occupation.

Early Assistance to the National Museum

The early objectives of SPACH in working closely with the National Museum involved securing what was left of the Museum's collection

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[3] See, for instance, Plates 4, 5 and 48a–59.

and attempting to retrieve looted objects from the antiquities markets before they went completely underground. An important SPACH activity in the mid-1990s was seeking financial and political support for this objective through the dissemination of regular updates to the press and relevant international groups concerning the state of the National Museum in Kabul.

These activities' funds were allocated for preliminary construction works. Remedial works organized by Jolyon Leslie and funded by UN-Habitat were first undertaken on the building during 1994 to weatherproof the ruins and to provide a degree of security for the surviving stores. At the same time the museum staff were able to retrieve hundreds of objects from the debris and more than 1,500 objects were also recovered in Kabul by various individuals and the National Commission for the Preservation and Retrieval of Afghanistan's Cultural and Historical Heritage; a body set up at the initiative of the Rabbani Government. SPACH was also able to retrieve a limited number of objects from Pakistan.

The Return of Looted Objects to the National Museum

Between 1994 and 1996 a total of 48 important objects looted from the National Museum were returned to the Ministry of Information and Culture by SPACH. Despite the massive scale of the losses from the Museum collections, this was a significant achievement given the circumstances and constraints under which people had to work. SPACH managed to purchase some objects directly from antiquities dealers, as various important pieces appeared in antiquities markets, indeed some still had the Museum's registration numbers painted on their surfaces. Such activities are not to be recommended in normal circumstances, but the circumstances of the day were exceptional. Firstly, these objects had a certifiable provenance, had been documented, inventoried and scientifically progressively studied by innumerable scholars during the course of the 20th century. Secondly, Afghan law and order had all but broken down and antiquities were flowing freely across their porous borders with Pakistan. It was a case of using desperate measures during the height of the civil war to try to stem the flow of artefacts stolen directly from the National Museum and to preserve them as documented objects of the cultural heritage of Afghanistan.

Nonetheless, it proved to be a near impossible task for various reasons, and also highly dangerous and fraught with ethical dilemmas.[4] For one thing, it meant having to 'buy in' to an illegal market that went hand in hand with the smuggling and sale of weapons and drugs. Secondly, once news of the looting and the 'availability' of items from the National Museum surfaced, prices and demand were largely driven from abroad by wealthy participants in the illegal traffic from all over the world, increasing the problem tenfold. SPACH was ultimately unwilling, and in any case unable, to pay the astronomical prices being asked, in some cases reaching up to a quarter of a million US dollars. Much time and effort was spent in attempting to locate the more significant objects of the National Museum, both in Afghanistan and Pakistan. This exercise was further hindered by the appearance of fakes, however, some even with copied Museum numbers that began to flourish in the Peshawar region in the mid to late 1990s. After months if not years of searching, verifying and bargaining, some significant objects from Begram, Hadda and Ai Khanoum, amongst other sites, were in fact recovered.

Despite great efforts by all concerned, the problem of looting seemed to be getting worse through the 1990s. After the most portable objects had been looted from the Museum and sold (coins and small ivory pieces, for example) the looters became even more audacious in their attempts to acquire specific objects, suggesting that they knew exactly what they were looking for. One such example came in 1996 when a schist Buddha in the foyer of the Museum that had been presumed to be too heavy to be stolen was simply removed from the wall overnight. This implied more than mere opportunism in this case as it is not uncommon for looters to target specific objects or object types in order to fill orders from middlemen directly connected to wealthy buyers.

Some of those museum artefacts recovered by SPACH were kept in a 'safe haven'[5] in Pakistan for almost a decade, but have recently been returned to the Afghan Government.

[4] See also Van Krieken in this Volume, chapter 13.
[5] See for the subject of 'safe haven' Siehr in this Volume, chapter 17.

Inventorying the Collection of the National Museum[6] *in 1996*

As mentioned before, the National Museum had been attacked and looted several times since 1993, despite continued efforts by SPACH and others to secure the building and what was left of the collections. Three thousand objects in total were painstakingly rescued from the mounds of debris from the roof that was first brought down by rocket attacks in May 1993. An obvious priority for the Museum was to verify what exactly had been lost and what remained of the collection. UNESCO made several attempts to send a delegation from Musée Guimet headed by Pierre Cambon to conduct an inventory of the remaining collections of the Museum. However, the first attempt in June 1995 was thwarted by fighting in Kabul as was the second in September 1995. Pierre Cambon did manage to come to Kabul for two weeks, but again in November 1995 another rocket hit the building and exposed the collection once more to the elements and to opportunistic pilfering.

Principally through the efforts of Carla Grissmann (SPACH), an attempt was made in 1996 to conduct another preliminary inventorization of the remaining objects of the National Museum and to facilitate a plan to have them removed to more secure premises. Due to the obvious lack of security at Darulaman, the Ministry of Information and Culture of President Rabbani's Government was also anxious to safeguard what remained of the collection. Thus, the objects were packed up and the Kabul Hotel in the centre of the city was chosen as a temporary site to house them along with 71 National Museum staff members.

From April to September 1996, just two weeks before the arrival of the Taliban in Kabul, over 500 crates, trunks and boxes, containing 3,311 objects were shifted from the Museum to the Kabul Hotel. The project was ultimately successful but was hampered all the way by continued hostilities. Participants in the exercise reported carefully packing objects while the National Museum building shook with incoming and outgoing rocket fire. Also, during the process the bus that carried Museum staff to and from the Museum was fired upon and there were several periods when staff simply could not go

[6] See also Grissmann in this Volume, chapter 4. She continued this difficult task under many hair-raising circumstances together with the Afghan Museum staff.

because of incessant shelling and rocket fire. The Taliban disapproved of the move to the Kabul Hotel and kept insisting that the collections be returned to Darulaman even though the building continued to deteriorate and the roof over the foyer had fallen in and showered the Kanishka statue with debris.

Between 1996 and 2000, Carla Grissmann's work continued and a total of 6,520 objects were inventoried in Dari and English. The aggregate total, however, was much higher as hundreds of similar objects from various sites and periods were registered under single numbers, e.g., arrow heads, flints, pebbles etc. In 1998, that part of the collections that had been moved to the Kabul Hotel were moved to the Ministry of Information and Culture where it had appeared to have found a secure, albeit temporary home.

The Brief Reopening of the National Museum in August 2000

In July 2000, the Deputy Minister of Information and Culture in the Taliban government, Mawlawi Hotaki, made plans to put a small number of objects on display and to organize a public event that would coincide with the presentation of the Rabatak inscription brought back from Pul-i-Khumri, and also to celebrate Jeshyn, Afghan Independence Day, on August the 17th 2000. The Taliban requested that SPACH provide some logistical support for the exhibition. SPACH held meetings with Mr. Hotaki, a politically moderate member of the Taliban government, who advocated the exhibition and urged SPACH to provide assistance. There were some legitimate suspicions about the motives of the Taliban given their general hostility to cultural heritage outside their particular stream of Islam. One factor in favour of supporting this endeavour was repeated assurances from the Taliban authorities and the decrees of Mullah Omar himself that expressly forbade traffic in antiquities, looting or vandalism of any kind, and promised punishment under the full weight of the law.[7]

The exhibition took place and twenty-four objects were put on display in the entrance and hallway, half of which were permanently in place, including the superb clay Bodhisattva from Tepe Maranjan.

[7] See for example the decrees of Mullah Omar, SPACH Newsletter No. 6, May 2000, 18.

The former library was turned into an exhibition room and eight tables of ethnographic artefacts, mainly from Nuristan, and confiscated objects from the Islamic period, were put on display. A number of people visited the Museum after the 17th of August but by the 23rd of August everything had been packed up once again and the Rabatak inscription taken to the Ministry of Information and Culture storeroom.

Iconoclasm in 2001

Few could have predicted at that time that the Taliban would embark on a spree of iconoclasm in Bamiyan, the National Museum, and in the Ministry of Information and Culture offices to where the collections had been moved in 1998. The Deputy Minister, Maulawi Hotaki, was sacked, and Mullah Omar reversed his earlier decrees by calling for the destruction of the Buddhas.[8] Artefacts revered by people from all over the world for their aesthetic value or archaeological/historical significance, were irreversibly smashed into thousands of pieces. This leaves the National Museum staff, with the necessary assistance of foreign museums and conservators, with many years of painstaking work ahead of them in order to salvage what they can from the rubble. The museum officials responsible for the objects lived under dramatic conditions during those days, and the trauma has remained since then.

Recent Inventory and Assistance to the National Museum

Work began in the post-Taliban period with assistance from the Greek Government, the Italian Government, the Foreign Commonwealth Office (Great Britain), Musée Guimet (France) and The National Institute for Cultural Properties (Japan). More recently, during 2003–2004, SPACH has been able to encourage and assist a number of donors in supporting the reconstruction of the Museum building and to purchase equipment for its day-to-day functioning. Among these donors are: Hellenic Aid, the UNESCO/Italy Trust Fund, the Foreign Commonwealth Office (UK) and the National Geographic Society (Washington). SPACH implemented or coordinated

[8] See Van Krieken in this Volume, chapter 13.

several of these projects.[9] Major work on the roof was finished in late 2003, before the onset of the heavy winter snows. SPACH worked on the allocation of a further grant provided by the National Geographic Society to cover the remaining works on the second floor and this was completed in 2004. The building is now secure, structurally sound and weatherproof. In September 2004 the Museum was finally reopened to the public by the President, Hamid Karzai.

But considering that a National Museum is a symbol of civic pride, much more funding will have to be secured to increase standards at the present building.

A Definitive Inventory Including the Bactrian Gold and Other Masterpieces

A definitive inventory was begun in a partnership between the National Geographic Society and the Ministry of Information and Culture (Department of Museums), facilitated by SPACH in 2004 in order to inventorize the Bactrian Gold and the masterpieces kept in the Arg (Plates 6–11) and to produce a documentary that will help to raise awareness as to the richness of Afghanistan's cultural heritage. The experts chosen to carry out this first phase of the inventory were Carla Grissmann[10] and Fred Hiebert. The museum director established the different committees of the inventory process. An initially proposed inventory card had to be repeatedly modified to fulfil not just the Getty object ID standards[11] but also Afghan requirements. Finally, an agreement was reached and an English and a Dari inventory sheet had to be filled in for every object. The computerization committee had to receive some training. This training was carried out by Mr. Mohammad Zia (SPACH). During this process it was revealed to the world that the Bactrian Gold and many other masterpieces, previously thought to have been lost, had been courageously saved by the Museum's staff from the ravages of the civil war and the Taliban. In 1989, the museum staff and the

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[9] In March 2003, SPACH provided the Museum with electricity thanks to a grant of US $30,000 from Hellenic Aid and the technical assistance of the CIMIC-Dutch ISAF, and in November 2003, SPACH allocated US $40,000 from the UNESCO/Italy Trust Fund to reconstruct the Museum's roof.

[10] See again Grissmann, in this Volume, chapter 4.

[11] See for the object ID standards van Beurden, in this Volume, chapter 16.

security committee of the Ministry of Information and Culture had decided to move the objects displayed on the second floor of the National Museum to a 'safe haven', an idea fully supported by the then President, Dr. Najibullah. A pact of silence among the Government officials involved made this success possible.

This inventory and conservation process is ongoing and further funding was secured by SPACH for 2004/05 from the Governments of Italy and the United States via UNESCO. SPACH is continuing to implement this UNESCO/U.S. grant and it is primarily being used to provide training and materials to the Museum for inventorization, conservation needs assessments and training in caring for basic collections, general management, English and Computer courses for interested members of the staff.

After the inventorization of the Bactrian Gold and the other most valuable items from the Museum that had been stored in the vault of the National Treasury, other collections became the focus of the documentation effort: the Buddhist and Islamic art collections from Ghazni, the Hellenistic art from Ai Khanoum, and the Buddhist art from Fondukistan, Bamiyan, Kakrak and Shahr-e Zohak. These inventories are being carried out by the leading specialists in the field, sometimes even the original excavators: Prof. Paul Bernard, Prof. Deborah Klimburg Salter, Prof. Anna Filigenzi, Prof. Bernard Dupaigne, Dr. Max Klimburg and Dr. Bertille Lyonnett. To accommodate all the data produced by the documentation effort, SPACH and the Museum are currently working on an electronic database in Dari and English. At the same time, conservation needs assessments are being carried out for the most needed collections.

In December 2004, at the request of Minister Raheen, the Nuristani collection restored by the Austrian Government was put on display in the recently refurbished ethnographic room (Plate 2b) by Dr. Max Klimburg and the Museum's Ethnographic Department, with the support of SPACH/UNESCO (funded by the Italian Government). The museum staff were in charge of the museography and with the expertise of Dr. Klimburg the pieces were documented. It was the first exhibition after the brief opening of the Museum by the Taliban. This was perceived by the museum staff to be a great step forward in the rehabilitation process of the National Museum. To support the Exhibitions Department, the Museum Director and SPACH are planning to organize training so as to improve display techniques

for the year 2006, or once the inventorization of all the objects will be completed.[12]

The *tawildar system* (a system of keyholders)[13] had proved to be very efficient in avoiding wholesale looting or iconoclast damage to the artefacts during the years of conflict, but in today's Afghanistan it is becoming an increasingly obsolete if not obstructive system with which to work. A lack of confidence in the current political process and the lack of perception concerning security by those responsible for the objects; the lack of qualified human resources to change to a modern curatorship system, a lack of quality education at University level, a lack of interest among the younger generation as regards joining the civil service . . . are some of the reasons why no progress could be made in this regard with the help of foreign specialists in the field during the past four years. This is one of the main concerns of the Museum Director, who for some years has been trying to recruit new *tawildars* with no success while the ones in charge are becoming increasingly aged. The system is on its last legs. It is becoming urgent to initiate discussions about the different solutions between Afghan officials and the best experts in this field.

Advocacy and Awareness-raising

In the light of the conflict throughout the 1990s, the Museum building continually changing hands, and the constant subjection of the collections to new threats, a core objective of SPACH soon became awareness-raising in order to garner support from all quarters to find and implement solutions to the problem. Of course, the problem was much broader than merely the threat to the National Museum, and SPACH personnel necessarily had to widen their advocacy and awareness-raising activities to encompass the plight of cultural her-

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[12] In general, staff training faces many challenges. Also, awareness in general and the use of the public at large are not easy matters.

[13] The 'tawildar' system involves the safe keeping of museum collections under the auspices of particular people who literally hold the keys and control access to them. Tawildars are not curators in the Western sense because their position does not necessarily imply an academic or historical knowledge concerning the pieces under their protection. It is much more about security. And any access to particular collections by anybody for any purpose requires the presence of the relevant tawildar or their lawful representative.

itage in Afghanistan in general. Indeed, since the outbreak of war in 1979, significant monuments, artefacts and archaeological sites across the entire country have been threatened by fighting, looting, neglect, thoughtless vandalism and even iconoclasm. The historic site of Buddhist pilgrimage, Hadda, near Jalalabad, is one such example of a site where Afghanistan and the world have been deprived of a significant part of their cultural heritage. The site contained unique sculptures in a Graeco-Buddhist style which were excavated and left in situ on the walls of the monastery in a splendid open-air museum, only then to be destroyed by a combination of fighting, looting and vandalism in the 1980s. The complex now lies in ruins with only occasionally discernible pieces of broken stone statue bases, formally in situ, scattered amongst the ruins. Other examples of cultural vandalism occurred in 1998 and 1999 when the Small Buddha was hit in the midriff by a rocket, and in 1999 when tyres were burned on the ledge forming the chin of the Large Buddha. SPACH had urged the authorities on several occasions to ensure the protection of the Buddhas and were given assurances to that effect.[14] Nonetheless, SPACH's appeals did not seem to reach the troops at the frontline.

Notwithstanding this, various advocacy and awareness-raising techniques employed by SPACH have proved to be useful tools in achieving objectives in certain instances, and SPACH has employed them with equal fervour amongst both foreign and successive Afghan governments—from those of President Rabbani to the Taliban—and in the more hopeful circumstances of the present day. Part of this duty has meant that members of SPACH have been and continue to be in contact with international experts on Afghanistan and mass media concerned about the issue of Afghanistan's cultural heritage.

SPACH Newsletter and Library Series

SPACH used its publications in order to bring current events into focus and also to urge the Afghan authorities and the international community to take steps to stem the tide of the destruction of cultural heritage in Afghanistan. Besides direct advocacy, SPACH's

[14] As shown by the decrees of Mullah Omar in 1999, see also Van Krieken in this Volume, chapter 13.

awareness-raising took place principally by means of the SPACH Newsletter and Library Series, which became quite popular among Afghans and foreigners working in or on Afghanistan. SPACH's membership and reputation began to grow as a result. SPACH published regular newsletters from 1996 onwards and also a library series containing informative articles on various topics concerning cultural heritage in Afghanistan (they are available on the website: www.spach.info). Throughout this period the Newsletter and the Library Series aimed at raising awareness amongst particular social groups, such as educated Afghans and foreigners, who might be able to lend their support to cultural heritage imperatives in Afghanistan. SPACH's media publications are now focused on the World Wide Web, which has proved to be a more far-reaching means of awareness-raising, but it still also publishes information in hardcopy format. The SPACH website contains articles and contributions from academics and individuals within Afghanistan and from around the world, and up to date news on current issues and events concerning cultural heritage in Afghanistan. The site is published from the SPACH office in the heart of Kabul city. SPACH is continuing its Library Series and has generous contributions from various leading academics in Afghan studies lined up for publication in the coming year. All the articles will be translated and published in Dari and Pashto in order to provide much needed materials to students and other interested parties studying in the cultural heritage area in Afghanistan.

Public Awareness-raising

To raise awareness among the general public, SPACH produced a full-length feature film in cooperation with Afghan Film, and with funds from the Netherlands, called 'Rediscovered Homeland'. In this film, often aired on Afghan television and shown throughout the country in a mobile cinema project (organized by Aina)[15] a young girl embarks on a flying carpet tour with a magician who shows her the most important monuments of the country, in an effort to make her understand the value of her country's cultural heritage. A plot unfolds as a demon follows the pair, leading to a thrilling climax.

[15] Aina (mirror in Dari) is an acronym for a French media-related NGO.

Lectures, Seminars and Other Forums

SPACH, over the years, has tried to assist in the development of strategies and policies that would move Afghan institutions towards strengthening their ability to preserve cultural heritage. One such example is SPACH's participation over the last few years in a consultative group chaired by the Ministry of Information and Culture, with UNESCO as the focal point, the function of which is to both inform the Ministry of the activities of donor and implementing agencies active in Afghanistan, and to assist the Ministry in formulating cultural policy and priorities. SPACH members have also participated in many international seminars, workshops and lectures about Afghanistan's cultural heritage and continue to do so. In this regard we must make special mention of Ms. Nancy Dupree, the founding member of SPACH, who has worked tirelessly in awareness-raising concerning Afghan cultural heritage for more than four decades and who continues to do so up to the present day.[16]

SPACH has also given its support over the years (monetary, logistical and in terms of expertise) for lectures and exhibitions as a means of raising awareness about the richness and vulnerability of the cultural heritage of Afghanistan. SPACH members continue to work closely with representatives of the Ministry of Information and Culture, the United Nations Education Scientific and Cultural Organization (UNESCO), the International Council of Museums (ICOM), and other cultural institutions worldwide in order to solicit advice and support for the preservation of the threatened heritage of the country.

Over the past years SPACH thus organized and sponsored lectures in the Auditorium of the University of Kabul, about 'Recent discoveries in Greco-Bactrian language and their historical significance' (by Prof. Sims Williams), 'Buddhism in Bamiyan during the Hephtalite period' (by Mr. Zafar Paiman), a lecture on traditional life and art in Nuristan, and others. Such events are seen as a means of keeping Afghan scholars in touch with research taking place in other parts of the world, and also keeping foreign scholars aware of the challenges facing education, scholarship and research institutions in Afghanistan.

[16] Her contribution in this Volume, chapter 5 is witness to that.

Documenting Monuments and Sites

One of the great strengths of SPACH as an organization has been the preparedness of its personnel to work and travel inside Afghanistan to assess the potential threats at first hand, and the implications and limitations of policies and theories when witnessed at the practical level of implementation, even when security could not be assured. In this manner SPACH has been able to keep abreast of developments and threats to monuments and sites across the country as they unfolded and continue to unfold, and to advocate for policy change and action when necessary. In many cases through advocacy and awareness-raising such threats have been neutralized before they became crises. On other occasions, of course, despite great efforts to promote the protection of certain monuments, such as in the two Bamiyan Buddha crises of 1997 and 2001, overwhelming local and geopolitical factors have militated against successful outcomes. However, such outcomes make the activity in question and its objectives no less necessary or worthy, but indeed more so.

The SPACH representative in Kabul during 2000, Robert Kluyver, was extremely active in this regard, conducting numerous surveys throughout Taliban Afghanistan in order to record the status of monuments and sites and to identify urgent conservation needs. On other occasions SPACH has employed the services of foreign scholars to survey and document endangered sites and new finds. The architect Prof. Andrea Bruno surveyed monuments in Herat and Jam Minaret on repeated occasions, the late Italian archaeologist, Maurizio Taddei, conducted one such survey on behalf of SPACH and UNESCO in 1999, returning to Ghazni where he excavated extensively in the 1960s and 1970s. He reported on the current status and made conservation recommendations for the Buddhist site at Tepe Sardar and the Islamic Palace of Massoud III. Another SPACH expedition in 2000 to Baghlan Province, led by Dr. Jonathan Lee, ensured the safe retrieval of the highly significant 'Rabatak Inscription' from Pul-i-Khumri where it was thought to have been lost since 1993. The inscription has contributed much to the knowledge of the Kushan period.

Support has been obtained for other assessment missions to sites of historic importance in Kabul, Herat, Mazar-i-Sharif, Jalalabad (Hadda), Ghazni, Ghor (Jam Minaret),[17] Baghlan, Bamiyan, Faryab,

[17] See Thomas and Gascoigne, in this Volume, chapter 10.

Badghis, Ai-Khanoum, amongst others. The resulting reports and photographs were disseminated to the relevant institutions in Afghanistan and abroad as part of SPACH's overall awareness-raising and advocacy activities. These documents have also been able to supplement the loss of other important documents related to historic sites in the country for research purposes.

This documentary process also keeps us painfully aware of the scale of the problem in Afghanistan. Looting, damage or destruction to significant monuments and sites continues in virtually every province. SPACH has accompanied Dr. Raheen, the current Minister for Information and Culture, and professionals from the Institute of Archaeology and the Historical Monuments Department to many sites where raising awareness about the importance of Afghan cultural heritage was urgently needed. For instance, especially disturbing was seeing the damage caused by a rocket to the Shrine of Abu Nasr Parsa, one of the architectural masterpieces in Afghanistan, which occurred during factional fighting in Balkh. Furthermore, the damage to the delicate ornamentation of Masjid-i No Gumbad (Plate 22b), the oldest surviving mosque in Afghanistan, caused simply by children throwing stones and a lack of protection, was a telling experience. Another example is the ongoing looting of Kafir Kot, in Kharwar, a vast Buddhist archaeological site, surveyed recently by the Italian archaeologist Professor Verardi. Other important sites for the understanding of the Kushan period were surveyed, such as Surkh Kotal and Rabatak, the latter showing signs of recent looting yet again.

SPACH has organized this documentation into a photographic catalogue of sites, made up of both pre-war scholarship (1979) and updated material from recent site visits. The dissemination of this information to interested individuals and institutions in Afghanistan and abroad, as a means of developing an understanding of the priorities for remedial works and possible lobbying, has been a productive activity over the years. This record, by way of a comparison, also enables us to keep abreast of the deterioration of particular sites and monuments and to new threats to those sites as they emerge. It also contributes to awareness-raising as it is extensively used by Afghan editors of Dari and Pashto magazines read throughout Afghanistan. In order to facilitate the study of these monuments and sites, SPACH has compiled more than 4,000 photographs taken by members of SPACH and other contributors.

In May 2004, SPACH, in partnership with DAFA, funded another

expedition to Pul-i-Khumri in order to scientifically document a recently discovered rock-relief at Shamarq, Baghlan (Plates 61a and 61b) that has contributed further to our knowledge of Kushano-Sassanid Afghanistan and which escaped the outside world for over two millennia. New discoveries such as this, as well as the need to build a comprehensive list of sites and monuments to determine conservation and protection priorities has led SPACH to promote a large project to create a comprehensive nationwide catalogue, the aim of which is to document the status of all monuments and archaeological sites in Afghanistan.

In 2005 SPACH and Aachen University, Germany, launched this as a pilot project and surveyed several hundred sites in eleven provinces of Afghanistan while providing training for employees of the Historical Monuments Department. Further funding is now being sought to continue this project in the future.

Emergency Conservation Works

The coming to power of the Taliban in 1996 further justified the necessary role of SPACH in Afghanistan. Although the Taliban were generally hostile to numerous facets of Afghan culture, they did provide cultural heritage with a relatively more secure environment in which to conduct emergency conservation work to particular monuments in urgent need, at least until the final year of the regime. In these more secure conditions SPACH began taking on restoration projects, mostly at the insistence of SPACH's Afghan partners and later through assurances by the Taliban themselves. The great problem in Afghanistan in the late 1990s was a lack of larger, alternative organizations with greater resources, such as UNESCO and its affiliated organizations as well as other foreign archaeological/conservation missions, which meant that there were few organizations in Afghanistan able to conduct the work.

In this context, SPACH has carried out a number of minor and more extensive emergency interventions to preserve monuments in Afghanistan. Examples are the protective wall built at the base of the Minaret of Jam (Plate 23) in order to prevent further flooding and erosion from the Jamrud and Harirud rivers,[18] and repairs to

[18] See also Manhart in this Volume, chapter 3.

the protective roof over Masjid-i No Gumbad, undertaken by SPACH in conjunction with the Monuments Department in Balkh. Other examples are minor restoration work to the Mausoleum of Abd-Ur-Razzaq in Ghazni, and the construction of walls at the Musalla Complex in Herat to stop the encroachment of local traffic and activities into the area, and also the rehabilitation of the women's garden and some conservation works on Minaret nr.4, also within the Musalla Complex.

The Future of and Challenges Facing SPACH

The social and political context within which SPACH has undertaken its work in cultural heritage has changed significantly in recent years. The number of organizations now actively involved in cultural work in Afghanistan has grown, as UNESCO, the Aga Khan Trust for Culture and the Délégation Archéologique Française en Afghanistan (DAFA) have become operational in the field. SPACH's response has been to move back from the 'front-line' of cultural activity, and to position itself as a clearing-house for information and advocacy on critical issues, as well as a focal point for international scholars and institutions who require information, advice and practical assistance in the cultural field.[19] SPACH also continues to provide technical support to the Ministry of Information, Culture and Tourism, not only concerning the ongoing rehabilitation of the National Museum, but also through management and training support for the Institute of Archaeology, the Historic Monuments Department and the Planning Department.

The challenges that face any organization that aims to strengthen official institutions in the 'new' Afghanistan in frenetic development are multiple and complex. Just as in other sectors, there has been insufficient attention paid—by politicians and donors alike—to the development of an appropriate policy framework for culture. While efforts have been made to assist the government to develop appropriate strategies, through initiatives such as the UNESCO-led ICC[20]

[19] See acknowledgements, Thomas & Gascoigne in this Volume, chapter 10.
[20] International Coordination Committee for the Safeguarding of Afghanistan's Cultural Heritage.

process, the outcome resembles more of a shortlist of donor-friendly activities than any national vision for culture, and therefore bears little relation to the realities on the ground.

While few would have expected the administration to take bold initiatives in the cultural realm during the transitional stage of its existence, there seems to have been a distinct lack of political will since then to address a range of important and urgent issues affecting cultural heritage. Rather than using the new-found freedoms and political support that characterized the immediate post-Taliban era to play an active role in protecting cultural heritage, and promoting the values that this embodies, the government seems to have lapsed into treating such heritage as an instrument of its political goals, rather than as a source of diversity and inspiration that in fact belongs to all the women and men of the country. In 2006, Afghans find themselves in a situation that seems in many ways to differ little from their cultural experiences under previous regimes, which used the symbols of cultural heritage in crude official attempts to bolster a sense of national identity. Although still fragile, the new political climate that is emerging in Afghanistan seems to offer the government an important opportunity to promote new and creative ways of protecting and fostering culture, rather than simply returning to the habitual ways of the past. In failing to rise to this opportunity, far from being more effective than its predecessors, the government will continue to imperil the surviving cultural heritage of Afghanistan, while effectively marginalizing itself in the eyes of a dynamic new generation of Afghans.

Handicapped by a lack of vision and policy direction, arguably the government's next greatest challenge is an acute lack of capacity. As mentioned before, many Afghan professionals fled the country during the long conflict, while those who stayed did not, on the whole, have access to adequate opportunities for training and hands-on experience. In the case of culture, the consequence is a huge complement of staff with proven commitment, but skills and experience that fall far short of the contemporary needs in the sector. While there have been some attempts to train ministerial staff, these have been largely ad hoc, and have rarely been preceded by proper training needs assessments or evaluations. Just as under previous regimes, therefore, since 2002 training has become a dividend for those with political connections, and often has little impact on the institution concerned. Those, like SPACH, who have tried to make

the best use of its meagre resources to strengthen the real-time capacity in the various departments, are in a minority. If more resources are not to be wasted, it seems important for donors to target and monitor their investments in 'training' more effectively, and to hold their counterparts accountable for the outcomes.

To address these challenges, SPACH has committed itself to developing, in cooperation with Ministerial staff, a strategic plan for cultural heritage preservation, as a basis for discussion among our partner organizations and donors. The strategy centres on the belief that the safeguarding of cultural heritage is a vital part of sustainable development, through its potential contribution to education, livelihoods and the environment, but also in promoting a sense of identity and self-awareness, particularly among war-affected communities. The objective is to integrate the preservation of cultural heritage where possible with national development programmes, as part of government efforts to respond to the challenge of the UN's Millennium Development Goals by contributing to poverty eradication.

It is clear that, in Afghanistan's fragmented society, valuing cultural heritage can be an important boost to the consciousness of national unity, bridging ethnic and social divisions, and firmly rooting the new Afghanistan in its glorious past. And by educating young Afghans in the rich and diverse material heritage left as a trace by the different civilizations that inhabited this land in the past, we will ensure that a new generation of Afghans is made aware of the values of cultural diversity, so important to build peace in a post-conflict country.

In the coming years, SPACH will continue to work closely with the Ministry of Information, Culture and Tourism, and with local and international organizations active in cultural heritage. SPACH will continue to strive within its advocacy and awareness-raising mandate for the preservation of sites and monuments in Afghanistan, for better educational opportunities for Afghans in the sphere of cultural heritage, for development that is sensitive to cultural values, and for any and all projects that will better serve the preservation of cultural heritage in Afghanistan for the world and for those generations of Afghans to follow.

For more information on SPACH: www.spach.info

CHAPTER TWO

THE ARCHAEOLOGY OF AFGHANISTAN: A REASSESSMENT AND STOCK-TAKING

Warwick Ball

> In sheer cash value alone the art treasures unearthed in Afghanistan would equal—if not excel—[those from] most countries in Asia.

This was written in 1981 in Kabul under the Soviet occupation.[1] At the time, reports had appeared in western media—completely unfounded as it turned out—that the Soviets had emptied the National Museum in Kabul and taken its treasures off to the Hermitage in Leningrad.[2] Certainly at the time of writing I little dreamt how prescient those words might be, yet between 1993 and 1996 the value of the National Museum was realized by its unscrupulous systematic looting. Objects have since appeared on the international art market: Afghanistan's heritage 'is a victim of its own collectability and intrinsic value'.[3] Many of the few remaining sculptures in the museum too big to easily carry off were smashed by the Taliban in 2001. This and the very public destruction of the great Buddha's at Bamiyan by the Taliban in March 2001 have highlighted the immense cultural heritage in Afghanistan as well as the acute dangers facing them.

An Ongoing Story

Appalling though the destruction of Bamiyan undoubtedly was, it was merely the latest episode in a very long and very unhappy ongoing story. Whilst not exonerating the Taliban of their cultural

[1] When writing the introduction to the *Archaeological Gazetteer of Afghanistan*. See Ball 1982a: 20.

[2] Ironic to think now that the one outrage the Soviets were accused of but did *not* do is the very one that perhaps they should have done!

[3] Ball 1997.

crimes, it must be remembered that the looting of the National Museum happened before, not during, the Taliban government, one cultural catastrophe out of many that is the by-product of over twenty years' fighting and anarchy. This is hardly the place to discuss political issues, but the past decades in Afghanistan have had two major repercussions on the cultural scene. First, travel became impossible, closing Afghanistan from the outside world and cutting short the study of its architectural and archaeological heritage. And second, the fighting highlighted the already deteriorating conditions of many of these monuments, directly threatening them with further damage or even total destruction. The dangers to the Bamiyan statues were already a subject of increasing international concern before they were blown up.[4] In any case, the destruction of the Bamiyan statues was merely the most public cultural casualty out of many others. One major monument, the stupa-monastery complex of Tepe Shotor at Hadda—famous for its outstanding series of Graeco-Buddhist sculptures and reliefs—was destroyed early on in the fighting in 1980. Another, the Minar-i Chakari overlooking the Kabul Valley, was destroyed fairly late on, in 1998 (Plate 38a). In the intervening years the Graeco-Bactrian site of Ai Khanum—one of the most important Hellenistic sites in the world—was systematically destroyed by plunderers. The destruction is not limited to Afghanistan's pre-Islamic heritage: many of the Timurid monuments in and around Herat, such as the fifteenth century Mausoleum at Kuhsan, are damaged or destroyed. And there has been very extensive illicit digging and looting at the Minaret of Jam, resulting in the loss of vital information. This is by no means an exhaustive list—and more significantly applies only to those that we know about: the lack of access means that there is almost certainly more deterioration and destruction about which we have simply not learnt.

Fully understandable, there is a common tendency to blame the Taliban for the destruction of all Afghan cultural heritage,[5] but theirs is only a small part of a long and sad story. In Kabul in the late

[4] *SPACH* 4, 1998; Van Krieken 2000.

[5] For example Frances Wood, in her conclusion to *The Silk Road. Two Thousand Years in the heart of Asia* (London 2003: 245), erroneously blames the Taliban for the looting of the National Museum (but not a word about the far greater destruction of 'Silk Road treasures' inflicted by the Chinese Red Guards, against whom the Taliban pale into insignificance).

seventies and early eighties even senior diplomats were buying up art objects looted from archaeological sites and taking them out of the country in diplomatic bags.[6] This forms part of a history of stocking private collections from Afghanistan that goes back to the sixties and before. The process, in other words, appears to be unstoppable; it occurs at highest international levels and is entirely unrelated to the Soviets, the Taliban or to any war. It applies in particular to Afghanistan's outstanding Gandharan art heritage, one of the greatest styles of world art that is found only in Pakistan and Afghanistan, 'the usual sad tale . . . of despoliation of sites, looting, accidental discoveries, objects divorced from their contexts, and the conspicuous lack of almost any scientific control, that still continues today more than ever before.'[7] The study of Gandharan art suffers from insecure dating and lack of context as a result.

The destruction does not stop at looting portable and encashable antiques. There are also environmental, industrial and other threats. The important stupa-monastery complex at Kandahar, for example (the study of which was interrupted by the Soviet invasion), was being directly threatened by explosives used in stone quarrying at the base of the ridge directly underneath it in the 1970s (Plate 20). The destruction cited above of the stupa-monastery complex of Tepe Shotor at Hadda was only one of the many sites at Hadda that have been destroyed. Some half dozen similar complexes were excavated at Hadda in the 19th century and about eight more in the 1920s—all of these sites have been destroyed, by the effects of time, vandalism or both, long before fighting destroyed the latest to be excavated. In fact environmental threats are as big an enemy as robbers, vandals or soldiers. The impressive Bronze Age palace façade at Mundigak was completely destroyed long ago by erosion, while the Minaret of Jam—one of the greatest monuments in Islam—is directly threatened with collapse from erosion by the river at its base. Even when preventive and conservation measures are carried out, the environmental threats remain. I emphasized this in relation to another major monument, the stupa of Guldarra near Kabul (Plate 21), but it equally applies to many others: 'Although extensive preservation measures were carried out in the sixties with the UNESCO project,

[6] The author's own experiences. (ed.: see also Van Beurden in this Volume.)
[7] Ball 1997.

much had to be repeated only some fourteen years later with the Institute project. Deterioration therefore is continual and rapid, mainly from the effects of water and ice. If similar expensive projects are not to repeat the work yet again in the future, continual maintenance of a fairly straightforward kind is needed.'[8] Although none of these problems can be blamed directly on the fighting in Afghanistan, the fighting has nonetheless exacerbated the situation: the fighting prevents, for example, on-site inspection and maintenance aimed at ameliorating the effects of erosion.

New Discoveries

Without a doubt history has taken its course and there has been great destruction of archaeology and cultural heritage in Afghanistan but the years of anarchy have not been solely a catalogue of cultural disasters: there have also been important new archaeological discoveries in the intervening years. Major discoveries such as the Rabatak inscription of Kanishka and other new Bactrian documents from northern Afghanistan, for example, have considerably enhanced our understanding of Kushan history.[9] An astonishing two more tons of coins have been added to the already large quantities from Mir Zakah.[10] The Ghulbiyan fresco has been one of the most important additions to Central Asian painting in fifty years.[11] The spectacular discovery of a new Sasanian relief of Shapur at Rag-i Bibi near Pul-i Khumri has in a single stroke dramatically extended our knowledge of Sasanian art.[12] There have been discoveries of more frescos at Chehel Burj in Bamiyan Province, another Bactrian inscription at Tang-i Safidak, a vast new Buddhist monastic 'city' at Kharwar, a new stupa-monastery complex at Kiligan near Bamiyan, possible Graeco-Bactrian and Kushan temples at Tepe Zargaran at Balkh, as well as numerous other objects, sites and monuments.[13] All of these

[8] Ball, Rao & Pinder-Wilson 1984: 88.
[9] Sims-Williams & Cribb 1996; Sims-Williams 2001.
[10] Bopearachchi 1999.
[11] Lee & Grenet 1998.
[12] Grenet, Lee, *et al.*, forthcoming.
[13] Personal communications, various sources.

discoveries foreshadow greater ones still to come. However, these probably represent the tip of an iceberg of discoveries that would have been made if field research had continued uninterrupted.

Reassessment and General Stock-taking

The complete halt of archaeological fieldwork in Afghanistan did not have to mean that other forms of research did cease. Therefore, shortly after the invasion I wrote that the enforced halt in fieldwork 'is an excellent opportunity for a long overdue reassessment and general stock-taking, with all fieldwork completed in the past finally getting published. Much too can be achieved by re-examining and correlating past investigations, without the need for fieldwork. With the hindsight provided by this, more fresh avenues for research should open up than would otherwise have been possible, and one can perhaps hope that Afghan studies will enter a period of consolidation, rather than grind to a halt'.[14]

In the light of the years of destruction, therefore, it is all the more encouraging to look back over the past two decades of 'reassessment and general stock-taking' at some very positive achievements. Major field-work projects have been published, many of them of work carried out up to fifty years ago: the on-going Ai Khanum publications,[15] Bamiyan,[16] Dilbarjin,[17] the Eastern Bactria surveys,[18] Herat,[19] the Hindu Kush surveys,[20] Kandahar,[21] Shahr-i Zohak,[22] Shortughaï;[23] Surkh Kotal[24] and Tilla Tepe[25]—the list is by no means exhaustive. Important works of synthesis and discussion have also appeared on

[14] Ball 1982a: 22.
[15] Guillaume 1983; Francfort 1984; Bernard 1985; Leriche 1986; Guillaume & Rougeulle 1987; Veuve 1987; Rapin 1992.
[16] Higuchi 1984; Klimburg-Salter 1989.
[17] Kruglikova 1986.
[18] Gentelle 1989; Lyonnet 1997; Gardin 1998.
[19] Allen 1983; Najami 1987.
[20] Le Berre 1987.
[21] Helms 1997; McNicoll & Ball 1996.
[22] Baker & Allchin 1991.
[23] Francfort 1989.
[24] Schlumberger, Le Berre & Fussman 1983; Fussman & Guillaume 1990.
[25] Sarianidi 1985.

archaeology,[26] art,[27] architecture,[28] numismatics,[29] religion,[30] prehistory,[31] Graeco-Bactria,[32] the Kushans[33] and historical studies generally,[34] to give just some of the main areas.

A New Phase

With all of these recent discoveries and major new publications—together with international recognition of the new government, the beginnings of stability, and massive new efforts in cultural reconstruction—the archaeology of Afghanistan is clearly entering a new phase. In 2002 the Délégation Archéologique Française en Afghanistan (DAFA) re-opened and the Afghan authorities are anxious for a resumption of archaeological activities. Accordingly, already some archaeological field work has resumed: there have been new excavations carried out at Bamiyan and Jam,[35] for example, and more are planned at Chehel Burj, Kiligan and elsewhere.

The need for fieldwork—both current, future and past—to be systemized and a proper sites and monuments record for Afghanistan created has long been recognised. With this in mind, in 1978 the now defunct British Institute of Afghan Studies initiated at their premises in Kabul a card catalogue of archaeological sites, originally envisaged as just a basic ready reference tool under the direction of the present author. Following a decision to expand and publish the catalogue as a more generally available reference work, it was further expanded by the subsequent participation of the DAFA, who envisaged the project as a way of publishing sites recorded in various surveys (in particular the Eastern Bactria surveys under the direc-

[26] Knobloch 2002; Olivier-Utard 1997; the on-going *South Asian Archaeology* volumes, e.g., Härtel 1981, Allchin 1984, Frifelt & Sorenson 1989, Jarrige 1992, Possehl 1993, Allchin & Allchin 1997, Gail 1998, Bopearachchi & Boussac 2005.
[27] Alam & Klimburg-Salter 1999; Allchin 1997; Boardman 1994.
[28] Hillenbrand 1994; Ball & Harrow 2002.
[29] Bopearachchi 1990.
[30] Grenet 1998.
[31] Kohl 1984.
[32] Holt 1999; Sidky 2000.
[33] Staviskij 1986; Errington & Cribb 1992; Alam & Klimburg-Salter 1999.
[34] The UNESCO *Histories*; Vogelsang 2002.
[35] Thomas *et al.* 2003. (ed.: see also his contribution to this Volume, chapter 10.)

tion of Jean-Claude Gardin) but up until then stored only in the DAFA archives and not easily accessible. The combined effort became the Archaeological Gazetteer of Afghanistan. Even this expanded project was planned to be a part of a broader one 'to set up a permanent, on-going framework for publishing the archaeological sites and monuments of Afghanistan . . . to act as a pooling of resources, incorporating all sites already known as well as contributions of new material from other authors'.[36] This was to consist of an on-going card catalogue to be maintained and administered at the British Institute of Persian Studies, and to be published every few years as a Gazetteer Supplement as new material warranted.

Such are brave statements of intent! The closure of the British Institute of Afghan Studies in 1983, together with the departure of the main author to research and professional activities unrelated to Afghanistan soon afterwards, rendered both the maintenance of a card catalogue and the publication of supplements impracticable. Most of all, the complete halt of any sort of field research in Afghanistan seemed to render it fairly pointless.

With the rebirth of archaeological fieldwork and reconstruction in Afghanistan, the need for a proper sites and monuments record is once more a priority. The original idea of an on-going card catalogue is now long superseded by computer databases. Accordingly, following a UNESCO sponsored International Seminar on Afghanistan's Cultural Heritage in Kabul in 2002, ICOMOS[37] was requested to set up 'a database of [Afghanistan's] cultural sites [to] serve as a tool for research and evaluation for all those who work in the cultural field in and about Afghanistan.'[38] The project was given to the Department of Urban History, University of Aachen (Germany), to implement, and a digital 'card catalogue' listing Afghanistan's main sites has accordingly been constructed, using Archaeological Gazetteer as its nucleus. Parallel to that project, the original Archaeological Gazetteer of Afghanistan is currently undergoing complete revision and expansion, to be published in a new edition.[39] Between both

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[36] Ball 1982b: 89.

[37] International Council on Monuments and Sites.

[38] George Toubekis, personal communication.

[39] Provisionally entitled *The Archaeological Sites of Afghanistan: A new Catalogue and Source Book*, to be published by Oxford University Press.

projects, Afghanistan's historical heritage will, it is hoped, be placed on a proper footing and research fully co-ordinated.

Cultural Identity

It may be argued that in the face of millions of displaced Afghans, large scale impoverishment, homelessness, unemployment and injustice, not to mention the almost total destruction of basic national infrastructure and the continued instability, factionalism and internal divisions, cultural heritage is the least of Afghanistan's priorities. Why bother about ancient Buddha statues when ordinary Afghans are starving here and now? But a nation's cultural identity cannot be so easily dismissed: the past, the monuments, the history, the art treasures are as essential in establishing national unity and self-confidence as basic infrastructure is.[40] Already we have seen this happen in recent years in one new Central Asian nation: the 're-invention' of Tamerlane as a national hero and the restoration of his monuments in Samarkand have been one of the most important elements in the creation of Uzbekistan's national identity since independence from the Soviet Union. This not only applies to new nations: the importance of Firdausi and Persepolis to Iran's identity, or Homer and the Parthenon to Greece's, or the Great Wall to China's, need hardly emphasizing. The glories and achievements of the Kushan or the Ghaznavid civilizations are far more a part of Afghanistan's identity than the Taliban, the factionalism or the fighting are, and we abroad should remember that. If the last decades of Afghanistan's history have demonstrated nothing else, it is the need for a strong, unified cultural identity and cohesiveness. The role of its cultural heritage is essential in this.

References

Alam, M. & D. Klimburg-Salter 1999 *Coins, Art and Chronology. Essays on the pre-Islamic History of the Indo-Iranian Borderlands*, Vienna.
Allchin, B. (ed.) 1984 *South Asian Archaeology 1981*, Cambridge.

[40] Dupree 1974.

Allchin, F. R. (et al.) 1997 *Gandharan Art in Context. East-West Exchanges at the Crossroads of Asia*, Cambridge.
Allchin, R. & B. Allchin (eds.) 1983 *South Asian Archaeology 1995*, New Delhi, 1997.
Allen, T. 1983 *Timurid Herat*, Wiesbaden.
Baker, P. H. B. & F. R. Allchin 1991 *Shahr-i Zohak and the History of the Bamiyan Valley, Afghanistan*, Oxford.
Ball, W. (with the collaboration of J.-C. Gardin) 1982a *Archaeological Gazetteer of Afghanistan*, 2 vols., Paris.
Ball, W. 1982b 'Project for an Archaeological Gazetteer of Afghanistan'. *Afghan Studies* 3 & 4, 89–93.
—— 1997 'Revue of: A Catalogue of the Gandhara Sculpture in the British Museum' by W. Zwalf, *Journal of the Royal Asiatic Society* 7, 3, 462–465.
—— 2004 *Monuments of Afghanistan. An Architectural, Archaeological and Historical Guide*, London & Paris.
Ball, W., G. K. Rao & A. W. McNicoll 1990 'The Minar-i Chakari. Report on the Society's Preservation Work', *South Asian Studies* 6, 229–240.
Ball, W. & L. Harrow 2002 *Cairo to Kabul. Afghan and Islamic Studies presented to Ralph Pinder-Wilson*, London.
Bernard, P. 1985 'Fouilles d'Aï Khanoum IV. Les monnaies hors trésors. Questions d'histoire gréco-bactrienne', *MDAFA* XXVIII, Paris.
Boardman, J. 1994 *The Diffusion of Classical Art in Antiquity*. London.
Bopearachchi, O. 1990 *Monnaies Gréco-bactriennes et Indo-greques. Catalogue raisonné*, Paris.
—— 1999 'Afghanistan 1993 le dépôt de Mir Zakah. Le plus grand trésor du monde, son destin et son intérêt', *Dossiers de l'archéologie* 248, 36–43.
Bopearachchi, O. & M.-F. Boussac (eds.) 2005 *Afghanistan. Ancien Carrefour entre l'Est et l'Ouest*, Turnhout Belgium.
Dupree, N. Hatch 1974 'Archaeology and the Arts in the Creation of a National Consciousness', in *Afghanistan in the 1970s*, L. Albert & L. Dupree (ed.), New York.
Errington, E. & J. Cribb (eds.) 1992 *The Crossroads of Asia. Transformation in Image and Symbol in the Art of Ancient Afghanistan and Pakistan*, Cambridge.
Francfort, H.-P. 1984 'Fouilles d'Aï Khanoum III. Le sanctuaire du temple à niches indentées', *MDAFA* XXVII, Paris.
—— 1989 *Fouilles de Shortughaï. Recherches sur l'Asie centrale protohistorique*, 2 vols., Paris.
Frifelt, K. & P. Sorenson (eds.) 1989 *South Asian Archaeology 1985*, Honolulu.
Fussman, G. & O. Guillaume 1990 'Surkh Kotal en Bactriane, II. Les monnaies. Les Petits objets', *MDAFA* XXXII, Paris.
Gail, A. J. (ed.) 1998 *South Asian Archaeology 1991*, Berlin.
Gardin, J.-C. 1998 *Prospections Archéologiques en Bactriane Orientale (1974–1978) 3, Description des sites et notes de synthèse*, Paris.
Gentelle, P. 1989 *Prospections Archéologiques en Bactriane Orientale (1974–1978) 1, Données paléogéographiques et fondements de l'irrigation*, Paris.
Grenet, F. 1998 *Cultes et Monuments Religieux dans l'Asie Centrale Préislamique*, Paris.
Grenet, F., J. Lee, P. Mortinez & F. Ory (forthcoming) 'The Sasanian relief at Rag-i Bibi (Northern Afghanistan)', in *After Alexander. Central Asia before Islam.* London.
Guillaume, O., 1983 'Fouilles d'Aï Khanoum II. Les propylées de la rue principale', *MDAFA* XXVI, Paris.
Guillaume, O. & A. Rougeulle 1987 'Fouilles d'Aï Khanoum VII. Les petits objets', *MDAFA* XXXI, Paris.
Härtel, H. (ed.) 1981 *South Asian Archaeology 1979*, Berlin.
Helms, S. W. 1997 *Excavations at Old Kandahar 1976–1978*, Oxford.
Higuchi, T. (ed.) 1984 *Bamiyan*, 4 vols (in Japanese), Kyoto.
Hillenbrand, R. 1994 *Islamic Architecture*, Edinburgh.
Holt, F. L. 1999 *Thundering Zeus. The Making of Hellenistic Bactria*, Berkeley.

Jarrige, C. (ed.) 1992 *South Asian Archaeology 1989*, Paris.
Klimburg-Salter, D. 1989 *The Kingdom of Bamiyan. Buddhist Art and Architecture of the Hindu* Kush, Naples, Rome.
Knobloch, E. 2002 *The Archaeology and Architecture of Afghanistan*, Stroud UK.
Kohl, P. L. 1984 *Central Asia. Palaeolithic Beginnings to the Iron Age*, Paris.
Kruglikova, I. T. 1986 *Dilberdzhin*, Moscow.
Le Berre, M. 1987 'Monuments pré-islamiques de l'Hindukush central', *MDAFA* XXIV, Paris.
Lee, J. L. & F. Grenet 1998 'New Light on the Sasanid Painting at Ghulbiyan, Faryab Province, Afghanistan', *South Asian Studies* 14, 75–85.
Leriche, P. 1986 'Fouilles d'Aï Khanoum V. Les remparts et les monuments associés', *MDAFA* XXIX, Paris.
Lyonnet, B. 1997 *Prospections Archéologiques en Bactriane Orientale (1974–1978), 2, Céramique et peuplement du chalcolithique à la conquête arabe*, Paris.
McNicoll, A. W. & W. Ball 1996 *Excavations at Kandahar 1974 and 1975*, Oxford.
Najami, A. W. *Heart. The Islamic City. A Study in Urban Conservation*. London.
Olivier-Utard, F. 2003 *Politique et archéologie. Histoire de la Délégation archéologique française en Afghanistan (1922–1982)*, Paris, 1997.
Possehl, G. L. (ed.) 1993 *South Asian Archaeology Studies*, Oxford.
Rapin, C. 1992 'Fouilles d'Aï Khanoum VIII. La Trésorie du palais hellénistique d'Aï Khanoum', *MDAFA* XXXIII, Paris.
Sarianidi, V. 1985 *Bactrian Gold. From the Excavations of the Tillya-Tepe Necropolis in Northern Afghanistan*, Leningrad.
Schlumberger, D. 1983 M. Le Berre & G. Fussman, 'Surkh Kotal en Bactriane', *MDAFA* XXV, Paris.
Sidky, H. 2000 *The Greek Kingdom of Bactria. From Alexander to Eucratides the Great. Lanham*, New York, Oxford.
Sims-Williams, N. 2001 *Bactrian Documents from Northern Afghanistan. Legal and Economic Documents*, Oxford.
Sims-Williams, N. & J. Cribb 1996 'A new Bactrian inscription of Kanishka the Great', *Silk Road Art and Archaeology* 4, 75–142.
SPACH 1998 Newsletter 4. *Society for the Protection of Afghanistan's Cultural Heritage*, Islamabad.
Staviskij, B. Ja. 1986 *La Bactriane sous les Kushans. Problèmes d'histoire et de culture*, Paris.
Thomas, D., G. Pastori & I. Cucco 2004 'Excavations at Jam, Afghanistan', *East and West*, 87–119.
UNESCO 1992–2001 *History of Civilizations in Central Asia*, 5 vols., Paris.
Veuve, S. 1987 'Fouilles d'Aï Khanoum VI. Le Gymnase. Architecture, céramique, sculpture', *MDAFA* XXX, Paris.
Vogelsang, W. 2002 *The Afghans*, Oxford.

CHAPTER THREE

UNESCO'S REHABILITATION OF AFGHANISTAN'S CULTURAL HERITAGE: MANDATE AND RECENT ACTIVITIES

Christian Manhart

UNESCO is responding firmly to the challenge of rehabilitating Afghanistan's endangered cultural heritage, which has suffered irreversible damage and loss during the past two decades of war and civil unrest. The safeguarding of all aspects of cultural heritage in this country, both tangible and intangible, including museums, monuments, archaeological sites, music, art and traditional crafts, is of particular significance in terms of strengthening cultural identity and a sense of national integrity. Cultural heritage can become a point of mutual interest for former adversaries, enabling them to rebuild ties, to engage in dialogue and to work together in shaping a common future. UNESCO's strategy is to assist in the re-establishment of links between the populations concerned and their cultural history, helping them to develop a sense of common ownership of monuments that represent the cultural heritage of different segments of society. This strategy is therefore directly linked to the nation-building process within the framework of the United Nation's mandate and concerted international efforts for rehabilitating Afghanistan.

With reference to the UN Secretary-General's dictum, 'Our challenge is to help the Afghans help themselves,' policies and activities for safeguarding Afghanistan's cultural heritage focus on training and capacity-building activities related to the preservation of this cultural heritage.

Coordinating Role

Entrusted by the Afghan Government to coordinate all international efforts aiming to safeguard and enhance Afghanistan's cultural heritage, the Organization coordinates and carries out various activities.

As the UN Programme Secretariat for Culture, Youth and Sports, UNESCO is supporting the Afghan Ministry of Information and Culture and related government agencies by coordinating all activities in the field of culture.

In May 2002, UNESCO organized the first International Seminar on the Rehabilitation of Afghanistan's Cultural Heritage, held in Kabul, which gathered 107 specialists in Afghan cultural heritage, as well as representatives of donor countries and institutions. Under the chairmanship of H. E. Dr Makhdoum Raheen, Minister of Information and Culture of the Afghan Government, the participants delivered presentations on the state of conservation of cultural sites across the country and discussed coordination for the first conservation measures to be taken. This Seminar resulted in more than US$7 million being pledged for priority projects, allocated through bilateral agreements and UNESCO Funds-in-Trust projects. An eleven-page document containing concrete recommendations for future action was adopted, in which the need to ensure effective cooperation was emphasized. Bearing in mind the enormous need to conserve sites in immediate risk of collapse, it was clearly stated, and approved by the Afghan Government, that the Bamiyan statues should not be reconstructed.

To this end, and following the Afghan authorities' request to UNESCO to play a coordinating role in all international activities aimed at safeguarding Afghanistan's cultural heritage, UNESCO has established an International Coordination Committee. The statutes of this Committee were approved by the 165th session of the Organization's Executive Board in October 2002. The Committee consists of Afghan experts and leading international specialists belonging to the most important donor countries and organizations providing funds or scientific assistance for safeguarding Afghanistan's cultural heritage.

From 16 to 18 June 2003, the First Plenary Session of this Committee was organized at UNESCO Headquarters. The meeting was chaired by H. E. Dr Makhdoum Raheen, Minister of Information and Culture, in the presence of seven representatives of the Afghan Ministry of Information and Culture and 60 international experts.

The meeting resulted in concrete recommendations, which allowed the efficient coordination of actions to safeguard Afghanistan's cultural heritage. These recommendations concern key areas, such as the development of a long-term strategy, capacity building, the imple-

mentation of the World Heritage Convention and the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, national inventories and documentation, as well as the rehabilitation of the National Museum in Kabul, the safeguarding of the sites of Jam, Herat, and Bamiyan. Several donors pledged additional funding for cultural projects in Afghanistan during and following the meeting.

Bamiyan

Immediately after the collapse of the Taliban regime in December 2001, UNESCO sent a mission to Bamiyan to assess the condition of the site and to cover the remaining large stone blocks with fibreglass sheets to protect them from harsh climatic conditions during winter. A project preparation mission to Bamiyan composed of German, Italian and Japanese experts was then undertaken from 27 September to 6 October 2002. It was noted that over 80% of the mural paintings dating from the fifth to the ninth century A.D. in the Buddhist caves have disappeared, either through neglect or looting. In one cave, experts even found tools which had been owned by the thieves and the remains of freshly removed paintings. In response to this situation, a contract was immediately concluded with the local commander, who provided ten armed guards to be responsible for the permanent surveillance of the site, and no further thefts were noted. It was also noted with concern, that large cracks have appeared in and around the niches where the Buddha statues were previously situated (Plate 19a), which could lead to the collapse of parts of the niches and inner staircases. The experts carried out complementary measurements and advised on appropriate actions to consolidate the cliffs and the niches. As a result of this mission, the Japanese Foreign Ministry generously approved a UNESCO Funds-in-Trust for the Safeguarding of the Bamiyan site with a total budget of $1,815,967. ICOMOS financed the restoration of a Sunni mosque and another building, both of which are located in close proximity to the niche of the large Buddha. The aforementioned building is now used to accommodate the guards, and to store the project equipment.

First Expert Working Group in 2002

An Expert Working Group on the Preservation of the Bamiyan site was jointly organized by UNESCO and ICOMOS in Munich from 21 to 22 November 2002. Twenty-five Afghan and international experts evaluated the present state of the site, compared different conservation methods and issued recommendations for the implementation of the different activities of the project. It was clearly reiterated that the statues should not be reconstructed.

Following some delays due to the security situation because of the war in Iraq, the first activities under this project only started in June 2003 with a three-week mission by the architect Mario Santana from Leuven University, for the scientific documentation of the back of the niches and the remaining fragments from the Buddhas.

During the First Plenary Session of the International Coordination Committee for the Safeguarding of Afghanistan's Cultural Heritage (ICC) organized in June 2003, a number of recommendations were made to safeguard the Bamiyan site. It was notably recommended to consider the consolidation of the extremely fragile cliffs and niches, the preservation of the mural paintings in the Buddhist caves, as well as the preparation of an integrated Master Plan as a priority.

In order to prevent the collapse of the cliffs and niches, large scaffolding, provided free of charge by the German Messerschmidt Foundation, was transported by the German Army to Afghanistan in August 2003. With the help of this scaffolding and of additional imported specialized equipment, the internationally renowned Italian firm RODIO has successfully implemented the first phase of the emergency consolidation of the cliffs and niches (Plate 19b).

In July, September and October 2003 several missions of specialists from the National Research Institute for Cultural Properties (Japan) were sent to Bamiyan to safeguard the mural paintings and to prepare a Preliminary Management Plan for the long-term preservation of the site. A Japanese enterprise was contracted for the preparation of a topographic map of the valley and a 3-D model of the niches and the cliffs.

Second Expert Working Group in 2003

With the aim being to ensure the coordination of all safeguarding activities in Bamiyan, a Second UNESCO/ICOMOS Expert Working

Group was held from 18–21 December 2003 in Munich. Twenty-five experts participated in this meeting and evaluated the progress of the consolidation, conservation and archaeological activities which had been achieved. They notably appreciated the consolidation method and work carried out by the Italian firm RODIO, which recently succeeded in preventing the upper Eastern part of the Small Buddha niche from collapsing. They also issued concrete recommendations for a follow-up and a working plan for 2004 for the final consolidation of the Small Buddha niche and the conservation of the fragments of the two Buddha statues, as well as for the preservation of the mural paintings and the coordination of the archaeological activities undertaken by the Délégation Archéologique Française en Afghanistan (DAFA) and the National Research Institute for Cultural Properties (NRICP), Japan.

From 25 to 29 March 2004, a UNESCO mission, composed of several experts from different fields of expertise, was sent to the site for the inception and the coordination of the follow-up work aiming to further consolidate the cliffs and the niches, to conserve the fragments of the Buddha statues and to preserve the mural paintings.

In the summer of 2004, the German Government financed, through ICOMOS, the installation of scaffolding and a shelter for the conservation of the fragments of the Buddha statues. UNESCO is presently assisting ICOMOS in the execution of this project in order to ensure the necessary coordination with other activities within the Bamiyan project, notably the consolidation of the cliffs and niches.

These activities are fully in line with the recommendations of the Second UNESCO/ICOMOS Expert Working Group.

Third Expert Working Group in 2004[1]

A Third Expert Working Group Meeting, organized by UNESCO and NRICP, was held in Tokyo from 18 to 20 December 2004, and

[1] The Expert Working Group on the Preservation of the Bamiyan site did meet for the fourth time in Kabul from 7 to 10 December 2005. Following the previous Bamiyan working groups and the efforts carried out in 2005, a group of Afghan and international experts did examine the progress of the consolidation of cliffs and niches, the preservation of mural paintings, the conservation of the remains of the statues of the Buddha, the preparation of the master plan, the development of the archaeological survey and the creation of a 3D model map. It did also, as it has in the past, make concrete recommendations on follow-up activities. See http://whc.unesco.org/en/events/253. See also Maeda in this Volume, chapter 8.

was followed by a one-day Symposium on 21 December 2004. Its goals were to review the work carried out, to set priorities, to secure funding and to coordinate activities to be implemented in 2005. Participants at the meeting expressed their great appreciation for the activities already undertaken to consolidate the Buddhas' niches, preserve the statues' remains, protect the mural paintings, map the site, prepare the Master Plan and train local personnel. Furthermore, for the first time, experts were able to use Carbon14 dating technology to ascertain the age of the two Buddha statues, as well as of the mural paintings: the Small Buddha was shown to date from 507 A.D., the Great Buddha dates from 551 and the mural paintings were dated between the late fifth and early ninth century A.D. The participants agreed on the need to pursue the activities undertaken during the first phase of the project, which focused on emergency measures, and emphasized that longer-term measures are urgently required to ensure the continued preservation of the site. The approval of the recommendations by the group marks the end of the successful two-year UNESCO/Japan project and determines the future goals of its second phase, which was approved by the Japanese Government in May 2005 to the amount of US$ 1,300,000. A UNESCO staff mission was undertaken in June 2005 for the inception and the coordination of the first set of activities, which include the conservation and the documentation of the mural paintings and the finalization of the Management Plan by NRICP, in cooperation with Aachen University, as well as the 3-D documentation of the Buddhist caves by PASCO and the conservation of the fragments of the Buddha statues by ICOMOS.

Jam and Herat

In March 2002, UNESCO sent two consultants to Jam and Herat. The architect Professor Andrea Bruno and the structural engineer Professor Marco Menegotto assessed the state of conservation of the Minaret of Jam (Plate 23), as well as the fifth Minaret, the Gawhar Shad, the Citadel, the Friday Mosque and other monuments in Herat and drafted project documents for their conservation.

Two months later, Professor Bruno accompanied by a hydrologist, carried out a mission to advise on the consolidation of the Jam Minaret's foundations, the stabilization of its overall structure and

the water flow of the two rivers. They also recommended protective measures for the archaeological zone of Jam, threatened by illicit excavations.[2] This mission revealed that while the dramatic high floods of April 2002 had damaged the gabions, which had been installed by UNESCO in 2000, they remained efficient in protecting the monument, which has perhaps only survived as a result of this measure.

These protective efforts are all the more significant in light of the fact that the Minaret of Jam was inscribed as the first Afghan property on the UNESCO World Heritage List in June 2002.

From 16 October to 7 November 2002, the architects Tarcis Stevens and Mario Santana from Leuven University carried out detailed metric documentation of the five minarets of the Gawhar Shad Musalla in Herat, as well as of the Jam Minaret. They combined this documentation with a preliminary training session on the use of a Total Station for Afghan experts. The Total Station was donated by UNESCO to the Afghan Ministry of Information and Culture.

An Expert Working Group on the Preservation of Jam and the Monuments in Herat was held at UNESCO Headquarters on 30 January 2003. Among the twenty-three participants were Dr Sayed Makdoom Raheen, the Afghan Minister of Information and Culture, Mr Zahir Aziz, Ambassador of Afghanistan to UNESCO, Mr Omar Khan Massoudi, Director of the Kabul Museum and Mr Abdul Wasey Feroozi, the then Head of the Afghan Institute of Archaeology. The experts evaluated the present state of conservation of the site of Jam, as well as of the fifth Minaret, the Gawhar Shad, the Citadel, the Friday Mosque and other monuments in Herat. They also addressed the problem of illicit excavations, compared different conservation methods and made emergency and long-term conservation and coordination proposals with reference to identified priorities. This Working Group resulted in concrete recommendations, which allowed the commencement of emergency activities in 2003.

In November 2002, the Swiss authorities approved a UNESCO Funds-in-Trust project for the emergency consolidation and restoration of the site of Jam, with a total budget of US$138,000. In addition, the Italian authorities granted US$800,000 through the UNESCO

[2] See also Thomas and Gascoigne, in this Volume, chapter 10.

Funds-in-Trust cooperation for emergency consolidation and restoration of monuments in Herat and Jam.

Safeguarding Activities in Jam and Herat

The first activities under these projects began in April 2003 with the construction of a project house in Jam, the clearing of the Jam riverbed, as well as repairing and strengthening the wooden and metallic gabions installed in 2000 and 2002 by UNESCO and subsequently damaged by the April 2002 high floods.

From 29 July to 12 August 2003, Prof. Andrea Bruno, Prof. Giorgio Macchi, Mariachristina Pepe and a representative of UNESCO, carried out a mission to Herat and Jam, to initiate preliminary work for a geological soil investigation at the minarets for the definition of their long-term consolidation. At the same time, the fifth Minaret in Herat, which was in imminent risk of collapse, was subject to temporary emergency stabilization by means of steel cables, designed by Prof. Macchi. This intervention has been successfully carried out by the Italian firm ALGA, under very difficult security and logistical conditions (Plate 22a). This Minaret is now secured and stabilized, even though it would probably not be able to resist a serious earthquake. It however resisted the earthquake that occurred in Bam in Iran in December 2003. The execution of the necessary soil study and the long-term consolidation of the fifth Minaret of Herat will be undertaken as soon as the conditions allow.

Three archaeologists from IsMEO, under a UNESCO contract, carried out safeguarding excavations on the site of Jam during the month of August 2003.

In 1994, UNESCO, jointly with the Society for the Preservation of Afghanistan's Cultural Heritage (SPACH), created a tile-making workshop in Herat. This workshop is currently hosting 60 Afghan trainees who are learning to produce traditional tiles. In December 2003, the German authorities approved a UNESCO Funds-in-Trust project for the retiling of the Gawhar Shad Mausoleum, to the amount of US$ 62,800. Necessary traditional tiles for this project are produced by the tile-making workshop in Herat.

From 21 February to 3 March 2004, Prof. Andrea Bruno, Prof. Claudio Margottini and a representative of UNESCO carried out a mission to Jam in order to advise the Afghan Ministry of Information and Culture on the construction of a road and a bridge at the site.

The mission resulted in the signing of a common agreement by the local communities of Jam, the Afghan government and UNESCO, allowing the organization to resume its operational activities aiming to consolidate and restore the Minaret, and to preserve the surrounding archaeological remains.

The next step will be the execution of a permanent partial strengthening of the base of the minaret by means of circumferential prestressing using stainless steel cables, designed by Prof. Macchi, in cooperation with the Italian firm ALGA. A preparatory mission was undertaken in June 2005 for the preparation of the Minaret's surface, which is necessary for the execution of this intervention. At a later stage, the necessary detailed subsoil technical investigations will be carried out in order to prepare the long-term consolidation of the Minaret.

Kabul Museum

Immediately after the collapse of the Taliban regime in December 2001, UNESCO sent a mission to identify and gather the remains of various statues and objects in the Kabul Museum and to prepare a project for their restoration.

In November 2002, due to the beginning of winter, UNESCO took some emergency measures. This involved the installation of new windows in several rooms on the ground and the first floor, as well as of a deep-water well with a pressure tank and plumbing to ensure a water connection for the conservation laboratory. In addition, a large electric generator was donated to supply electricity. In 2003 UNESCO, through SPACH, contributed US$ 42,500 to the restoration of the Museum, notably for the completion of the roof.

Restoration of the Museum Building

In January 2003, the Greek Government commenced the restoration of the Kabul Museum building as part of a commitment which it had made during the Kabul Seminar, held in May 2002, to donate an amount of approximately US$ 750,000. UNESCO provided the Greek specialists with drawings and plans of the Kabul Museum produced by the Organization's consultant, Professor Andrea Bruno. The US Government also contributed US$ 100,000 to this project.

Furthermore, the British International Security Assistance Force (ISAF) has installed a new restoration laboratory composed of two rooms, one wet-room and one-dry room, both of which were funded by the British Museum. The French CEREDAF donated conservation equipment and the reinstalled French DAFA, together with the Guimet Museum in Paris, organized training courses for the Museum's curators.

In March 2004, at the request of the Afghan authorities, a UNESCO expert undertook a one-month mission to Kabul in order to train staff from the National Museum in Kabul on the restoration of the ceramic collections.

Preservation of the Collection

In early 2004, a project to the amount of US$ 250,000 for the conservation and the preservation of collections in the National Museum in Kabul was approved and will be financed under the overall US contribution to UNESCO for endangered cultural objects. This project, fully in line with the recommendations of the First Plenary Session of the International Coordination Committee, which stated that it was indispensable to create adequate conservation and exhibition facilities for Afghanistan's national art treasures, was decentralized to the UNESCO Office in Kabul.

In order to ensure the coordination of all activities related to the ongoing scientific inventory of the collections of the National Museum in Kabul and to purchase the necessary equipment and materials, UNESCO established a contract with SPACH, to the amount of US$ 70,000, financed under a Funds-in-Trust project funded by the Government of Italy.

General

In September 2002, UNESCO concluded a contract with the French NGO Agence d'Aide à la Coopération Technique et au Développement (ACTED), for the emergency repair of the protecting roof of the ninth century nine-dome mosque Masjid-i No Gumbad in Balkh—the oldest mosque in Afghanistan—in order to preserve it from the harsh climatic conditions during winter (Plate 22b).

In January 2004 the Government of Italy approved a three-year project to the amount of US$ 705,685 for the rehabilitation of

museums in Ghazni. The objective of this project is the reinstallation and reopening of the Islamic Museum at Rauza and of the Pre-Islamic Museum at Ghazni. The activities, delayed because of the uncertain security situation in this province, will be partly carried out by IsIAO (Istituto Italiano per l'Africa e l'Oriente).

Complementing UNESCO's operational activities, the Organization is promoting existing and developing new normative instruments for the legal protection of tangible and intangible cultural heritage. Given that the prevention of illicit excavations and illicit traffic is a major challenge in contemporary Afghanistan, UNESCO supports the efforts of the Government of Afghanistan to ban illicit excavations and to control borders to prevent the smuggling of illicitly acquired movable cultural objects.

Conclusion

In conclusion, it can be stated that, to date, funding and other forms of assistance well exceeding the $7 million pledged during the May 2002 Kabul Seminar have been given for cultural projects in Afghanistan. To summarize, the UNESCO Funds-in-Trust programme has been entrusted with the following amounts from donor countries: $ 3,116,000 from the Government of Japan for the conservation of Bamiyan; US$ 969,000 for the monuments of Herat, Jam and the Kabul Museum, and US$ 705,000 for the Ghazni Museums from the Government of Italy; US$ 138,000 for Jam from the Swiss Government; US$ 850,000 from the Government of Germany in 2002, through ICOMOS Germany and the German Archaeological Institute, for the restoration of the Babur Gardens and for training Afghan archaeologists, US$ 54,000 in 2003 for the retiling of the Gawhar Shad Mausoleum, as well as US$ 250,000 for the conservation and the preservation of collections in the National Museum in Kabul financed under the overall US contribution to UNESCO for endangered cultural objects.

In addition to these Funds-in-Trust donations, bilateral contributions include US$ 5 million from the Aga Khan Trust for Culture for the restoration of the Babur Gardens and the Timur Shah Mausoleum in Kabul[3] and the rehabilitation of traditional housing in Kabul,

[3] See Leslie in this Volume, chapter 11.

Herat and other cities. The Greek Government has also earmarked $750,000 for the restoration of the Kabul Museum building, and the US Government has contributed US$ 100,000 to this project. The French Délégation Archéologique Française en Afghanistan (DAFA) has carried out preventive excavations. The French Musée Guimet organized several training courses for the staff of the Kabul Museum, while the British Museum has restored three rooms at the Kabul Museum for the installation of a conservation laboratory. In addition, UNESCO has provided $400,000 under its Regular Budget for the biennium 2002/03, and US$ 520,000 for the biennium 2004/05 for cultural activities in Afghanistan.

All activities of UNESCO are being implemented in accordance with the recommendations of the International Coordination Committee for the Safeguarding of Afghanistan's Cultural Heritage.

UNESCO would like to take this opportunity to thank all of these generous donors for their indispensable contributions. It should also be emphasized that these cultural funds come from specific cultural budgets. As such, they are not in any instances taken from humanitarian funds, but rather constitute an addition thereto.

CHAPTER FOUR

THE KABUL MUSEUM: ITS TURBULENT YEARS

Carla Grissmann

The history of the National Museum of Afghanistan itself is relatively brief. A modest collection of artefacts and manuscripts already existed at the time of King Habibullah (1901–1919). In 1919 an assortment of archival material, regalia, weaponry, miniatures and art collected by the royal family was assembled and housed in the Bagh-e-Bala pavilion,[1] Amir Abdur Rahman's Moon Palace, on a hillside overlooking Kabul. King Amanullah (1919–1929) moved the collection to a small building within the Royal Palace (Arg) in the center of the city and in 1931 the collection was finally installed in its present building in Darulaman, eight kilometers south of Kabul City. This building had previously served as the Municipality,[2] adjacent to the imposing palace built by King Amanullah in 1923 for the Parliament as part of his vision of a new European-style city outside the overcrowded walls of Kabul. Darulaman Palace served for a time as the Ministry of Public Works and lastly as the Ministry of Defense. Today it stands partially destroyed and deserted, at the end of a long, wide avenue which used to be bordered by a double row of poplar trees leading through fields of green but now through fields of ruins since the destruction of Kabul in the early 1990s. The trees had already been cut down during the Soviet regime to make Darulaman Avenue into an emergency runway and mud shops and houses had sprung up thickly on both sides.

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[1] Nowadays a restaurant below the Intercontinental Hotel.

[2] It was designed by André Goddard, an architect attached to the first French Archaeological Mission to Afghanistan.

The Building

The Kabul Museum, its popular name, is a two-storied gray cement building with a network of large basement storerooms. Long symmetrical wings on either side flank the high wooden entrance door. Before its destruction in the 1990s, the ground floor held offices, the library, conservation and photo laboratories, the carpenter's workroom, and further storerooms. A wide central flight of steps opposite the entrance hall led to an open high-ceilinged half-landing and a long exhibition room perpendicular to the body of the museum. The upper floor held offices, storekeepers' depositories and the nine exhibition rooms displaying the major collections. A further storeroom area was under the roof. In the 1970s two large rooms were added on either end of the two wings, one to display newly excavated objects from Ai Khanum, the other for temporary exhibits.

The building, designed as it was in the 1920s to be a government office and not a functional museum, had adapted its long corridors and small rooms to serve its purpose as best it could. The Begram Room and the Islamic Room were modernized in the mid-1950s by UNESCO. In 1973 a Danish architect was commissioned to make the plans for a new museum; land was allocated near the Royal, now the Presidential Palace in Kabul City. That year in a bloodless coup while King Zaher Shah was out of the country the monarchy was overthrown by the King's cousin, Sardar Daoud, and Afghanistan was declared a Democratic Republic. Plans for the new museum were caught up in events and never carried out.

Archaeological Missions

As early as 1833 officers of the East India Company, the Indian Army and the Afghan Boundary Commission, and various travelers had annotated the vast archaeological riches of Afghanistan and gathered small collections of lasting importance, such as the Charles Masson Collection at the British Museum. Indeed, nearly 40% of the recorded sites known today were surveyed before the end of the 19th century. The official beginning of archaeology in Afghanistan, however, dates from 1922 when the French mission in Kabul signed an accord with King Amanullah, giving them exclusive rights to carry out excavations in Afghanistan for a period of 30 years. This

was renewed in 1952 for a further 30 years, but broadened to allow other missions to participate.

In the early 1920s with the first excavations of the Délégation Archéologique Française en Afghanistan (DAFA) the spectacular treasures of Afghanistan were slowly brought to light. After 1952 more and more archaeological missions began working in Afghanistan, including the Italiano per il Medio ed Estremo Oriente (IsMEO), the Scientific Mission of Kyoto University, the British Institute of Afghan Studies (British Academy), the Smithsonian Institution and the American Universities Field Staff, the Archaeological Survey of India (ASI), the South Asia Institute of Heidelberg University, the Afghan Institute of Archaeology and other individual scholarly missions. Early agreements between the Afghan government and the various archaeological missions provided for an equitable division of objects between the foreign museums and the Kabul Museum, but after 1964 no archaeological artefacts were allowed to leave Afghanistan. As a result one of the large ground floor exhibition cases actually contained a collection of valuable confiscated objects.

Collections

Perhaps the most remarkable aspect of the Kabul Museum collections is the fact that every object in its possession came from Afghanistan, excavated from Afghan soil. Collections spanned fifty millenniums, from the Middle Paleolithic, Neolithic, Bronze Age, Achaemenid, Bactrian, Indo-Greek, Great Kushan, Kushano-Sasanian and Hindu Shahi through to the Islamic and ethnographic present time. Accidental finds accounted for several important collections, including the Ashoka Edicts from Kandahar, objects from Tepe Fullol, Tepe Khazana, Serai Khoja, Hindu Shahi pieces from Tagao and Gardez and the famous Kunduz, Chaman-i-Houzuri, Tepe Maranjan and Mir Zakah coin hoards. Approximately 600 artefacts were on exhibit, not including the coin and ethnographic collections. In 1979 the pre-eminent Russian archaeologist Viktor Sarianidi[3] working with the Afghan-Soviet Archaeological Mission brought the

[3] See his contribution in this Volume, chapter 6.

fabulous Bactrian Gold treasure from the Tilla Tepe necropolis in northern Afghanistan to the Kabul Museum (Plates 6–11).

The First Evacuation in 1979

The Kabul Museum has known pilferage from the storerooms and even from display cases since it was first established in 1919. Yet nothing equals the devastation it suffered between 1993 and 2001, which left the Museum building partially destroyed, bereft of its identity, much of its collections looted and dispersed, and its staff cut off from the world and any professional contacts for 23 years.

Since the Afghan Saur Revolution in April 1978, when the Royal Family was killed in a *coup d'état*, and the 1979 Soviet invasion, the collections also suffered a series of drastic uprootings. In April 1979 the Museum building was taken over as an annex to the adjacent Ministry of Defense in the Darulaman Palace, as the whole area became a military zone. The order came to vacate the premises in three days; it took a month. The collections were packed up and moved into the by-then deserted house of former President Daoud's brother near the French Embassy in Wazir Akbar Khan, where objects were crammed up to the ceiling in every available room, in hallways, in the basement; the garden was littered with broken showcases, office furniture and wooden pedestals. The staff moved into the servants' quarters, the library into one of the garages. In October 1980 the contents were moved back to Darulaman and the collections reinstalled in their original rooms, having miraculously suffered very little damage. Several new exhibits were opened, namely the Dilbarjin and Dashli Tepe frescoes, objects from Ai Khanum, the easternmost Hellenic city ever uncovered, and a Hindu Shahi white marble Surya found by Soviet soldiers in Khair Khana, a suburb of Kabul. A small selection of objects from Tilla Tepe was on display for two weeks, before the collection was put back in storage for safekeeping.

Rumours

It was, in fact, this move in 1979 that gave rise to the first wave of sensational rumors regarding the pillage and destruction of Kabul Museum art treasures. It was claimed that the entire contents of the

Museum had vanished and that the Tilla Tepe gold had gone directly to the Soviet Union. In 1980 UNESCO was urgently requested by Freedom House in New York to determine the fate of the Museum collections, to send out experts, and to make an inventory of what remained. What caused these rumors was not difficult to understand. For many years all artefacts, predominantly commercial handicrafts, leaving Afghanistan for gift shops throughout Europe had to be cleared by the Kabul Museum 'Visa Department'. Ordinary handicrafts, such as brassware, crude copies of Nuristani wooden utensils and furniture, pottery, and old guns and swords, were brought out to Darulaman by the truckloads, with the cleared items then proceeding directly to the airport for shipment abroad. When the Museum was installed in the center of town, the same clearing system continued, but whereas out at Darulaman it had gone unnoticed, it was now in full public view, the trucks and vans loaded with crates driving away from these new Museum premises and heading towards the airport, as reported by eye witnesses who had not bothered to check this quite standard activity.

The Second Evacuation of 1989

While Afghanistan was being systematically destroyed during the early years of the Jehad (1980–1989), Kabul, as well as the Kabul Museum, remained relatively intact. Russian was taught at the Museum, staff members were sent to Moscow and Brno, Czechoslovakia, for training; visitors came. However, in the autumn of 1989 after the withdrawal of the Soviet troops, the Afghan communist regime of President Najibullah, fearing for the safety of the exhibits, so vulnerable on the far outskirts of Kabul, closed the Museum and again ordered all objects from the exhibition rooms to be packed up and taken for safekeeping to two locations in Kabul City, namely the Central Bank vault in the Presidential Palace compound and the fourth floor of the Ministry of Information and Culture. The heavy schist sculptures and inscriptions were left in situ in Darulaman, along with the vast DAFA ceramic collection and the contents of the various storerooms on the ground floor and in the basement. All gold and silver coins and gold objects from Tepe Fullol were also deposited in the Treasury at the Presidential Palace, along with the Bactrian Gold Hoard from Tilla Tepe. In 1991 a few objects from Tilla Tepe were

put on exhibit for Kabul diplomats in the Koti-Baghcha pavilion in the Presidential Palace before vanishing back into the bank vaults.

The Destruction and Looting of the Museum in 1993

The tragic years of 1992–1995 saw the devastation of Kabul as well as the Museum in Darulaman, exposed as it was on the front line. In May 1993 the Museum building was shelled, the roof and top floor destroyed and left open to the elements (Plates 39a–40). Looting began that spring when the area was isolated by factional fighting and Museum staff were unable to reach Darulaman for months at a time. Every time the area changed hands there was further looting. In early 1994 United Nations Centre for Human Settlements (UN Habitat) weatherproofed the upper floor, installed steel doors on all the lower storerooms, and bricked up the windows. More than 3,000 objects were painstakingly rescued from the rubble. Yet looting continued. The massive schist bas reliefs of the Kasyapa Brothers (Plate 38b) and the Dipankara Jataka were wrenched off their iron hooks and carried away during the night curfew. Carved Nuristani columns, lintels and door panels were cut up for firewood. Fire destroyed office records, inventories, books, the photo laboratory, the Dilbarjin frescoes, as well as the renowned Islamic bronzes and lusterware, which had remained in Darulaman.

First Inventory

In 1994 the Society for the Preservation of Afghanistan's Cultural Heritage (SPACH) was founded in Islamabad, Pakistan, with part of its assistance efforts going to preparing an inventory of what remained at the Kabul Museum. From 1995 to 2000 the Museum staff labored selflessly under extremely difficult, even dangerous, circumstances. Darulaman as well as Kabul suffered daily rocketing and shelling. The Museum was without electricity or water; work was carried out in the airless storerooms by the light of kerosene lamps (Plate 41a) salaries were not paid (the salary of the director being $6.00 a month). For the inventory work, space was cleared wherever possible in the wreckage of the basement storerooms, with Museum staff and two members of the Afghan Institute of Archaeology

picking out objects one by one from the debris around them. Each object was measured and briefly described in Farsi (Accession Number, Type of Object, Original Inventory Number, Provenance, Material, Measurements, Description, Current Location, for example Trunk Nr. 2, etc.), some 15 items lengthwise down a page, with two carbon copies, then clipped into folders according to site. These entries were then translated into English and entered by hand on individual inventory fiches. Photographs were taken as best as could be, an average of one for every five objects. The small 5 × 5 cm photos were affixed to the English fiches, with duplicate copies put in labeled envelopes for eventual cataloguing in albums to accompany the Farsi inventories. Each object was carefully wrapped and its number written on the outside, then placed in numbered trunks. Amidst all the rubble it was heartening to find many of the remaining objects intact, with their old Kabul Museum registration number. The majority of the objects were, in fact, fragments, but had always been fragments.

The herma from Ai Khanum was found headless, the head found later in another storeroom. The ivory throne back from Begram had been demolished to remove the 13 small carved panels showing bejeweled courtesans. Fragments of smashed Greek plaster emblemas were swept up from the Begram storeroom. Of the schist figure from Shotorak of a worshipping child, only the left hand remained as a small solitary fragment. The capitals from Surkh Kotal were gone. The Korans, manuscripts and miniatures had been transferred earlier to the National Archives and are presumed safe. Outside in the no-man's land around the Museum, remained one rusting locomotive carcass from King Amanullah's railway, the second already stripped down for scrap metal. None of the collection of the king's automobiles remained.

Because of the lack of security at Darulaman, the Ministry of Information and Culture of President Rabbani's regime (1992–96) was anxious to safeguard what could be rescued from the Museum. In 1996, the deserted Kabul Hotel in the center of town was chosen to temporarily house these objects, as well as the 70 staff members. A government grant of 50 million Afghanis ($10,000) was allocated for construction work at the hotel to put bars on the windows and doors and to build partitions.

Two weeks before the arrival of the Taliban at the end of September 1996, over 500 trunks, crates, and boxes containing 3,000 objects were shifted from Darulaman to the Kabul Hotel (Plate 41b).

The Taliban Took Over

The hotel premises were immediately sealed by the new Taliban Ministry of Information and Culture and during the rest of that year and 1997 no Museum staff were allowed to go to Darulaman or the Kabul Hotel. A single guard was posted at the Museum entrance and a layer of dust covered the stairs at the Kabul Hotel. The Museum staff dispersed, finding work where they could, a member of the Museum cadre selling potatoes in a central market and one of the accountants running a horse and *ghaudi*.

In summer 1998 with the support of the Taliban Deputy Minister of Culture work on the inventory was taken up again, as well as restoration of the ground floor and damaged façade of the Museum using a $14,000 UNESCO grant made in 1995. As the Taliban needed an official guesthouse, the objects stored in the Kabul Hotel were shifted, yet again, this time to the ground floor of the Ministry of Information and Culture. Partitions, metal grills and padlocks were installed. Weeks were spent sifting through the rubble, which once more littered the floors. Abruptly all expatriate assistance was withdrawn on August 19, due to the American bombing of Afghanistan.

Throughout 1999 the Museum staff, now numbering only 20, continued work on the inventory with assistance from SPACH. In June a Taliban decree[4] was issued in Kandahar by Mullah Omar protecting all cultural and historic relics of Afghanistan and making illegal excavations and smuggling of artefacts out of Afghanistan punishable by law.

Reopening of the Museum in 2000

In August 2000 to commemorate Afghan Independence Day, the Kabul Museum was ceremoniously opened for four days, with a small exhibit of confiscated Islamic artefacts and a variety of objects that were still in place in the entrance hall of the Museum. In late 2000, the completed inventory of objects which had remained at the Kabul Museum, rudimentary as it was, totaled 7,000 items from 50 sites, not including the DAFA ceramics and other sealed trunks and crates still intact in the Museum basement storerooms.

[4] See Van Krieken in this Volume, chapter 13.

The Dramatic Events in March 2001

In February/March 2001, without warning, Mullah Omar reversed his earlier decree and the world watched in impotent shock as the Taliban dynamited the Bamiyan Buddhas, destroyed major pieces in the Kabul Museum and vandalized the Ministry and Museum storerooms (Plates 43, 44a and 46a). The few moderate Taliban officials who had supported cultural activities were posted to another ministry and the extremist element took control.

After the Defeat of the Taliban

After the Taliban were routed from Kabul in November 2001, what was left of the Museum staff reassembled and began again, knee-deep in rubble, to clean up the ground floor of the Ministry and the wreckage at Darulaman. The havoc caused by the vandalism at the Ministry made much of the inventories of the past years no longer valid. Countless artefacts had been smashed and separated from their identifying wrappings and numbered packing cases. Others had been repacked in trunks belonging to different storekeepers, or swept together and put in random boxes. A year later, the wooden crates, cartons, boxes, and tin trunks at the Ministry were shifted, for the sixth time, from the ground floor up to the fourth floor as the downstairs space was needed for a media center; crates of fragments went back to the Museum for eventual restoration where possible.

The Turning Point

The turning point came in 2003. Electricity and water were restored to the Museum in June. International funding was provided for the reconstruction of the top floor and roof. A conservation laboratory donated by the FCO/UK became functional; the smashed Tepe Maranjan Bodhisattva and much loved King Kanishka, among other pieces, were restored by experts from the Musée Guimet (Plates 3b, 44a–45); the library was reassembled. Young Afghan staff members, who never knew the Museum before its destruction, were given language and computer training by SPACH.[5] Duplicate copies of all

[5] See also Cassar & Rodriguez in this Volume, chapter 1.

Farsi and English inventories made between 1996–2000 were sorted and assembled, along with hundreds of partially burned DAFA fiches from the 1970s and thousands of large and small photographs, one set to got to the Ministry for safekeeping, the second set to stay at the Museum for eventual reference purposes. DAFA reopened its offices in Kabul and its 17,000-volume scholarly library was again made available to the public. French, Japanese and Afghan archaeological teams began working in Balkh and Bamiyan.

Throughout the years of isolation and civil war, the crucial question still remained regarding the elusive contents of the trunks out of sight since 1989. Attempts had been made regularly by various experts to be allowed to verify that the trunks in the Central Bank vault and at the Ministry were still in place and intact. The authorities were sympathetic but invariably impeded by bureaucratic complexities. The rumors that 80% of the objects on exhibit had been looted or destroyed in time became an accepted fact, not contradicted by the Museum staff. Indeed, the safety and survival of the objects was in large part due to the fact that the Museum staff simply kept quiet, resolutely eluding any mention of the whereabouts of the trunks or their contents.

A Well-kept Secret Comes to Light: the Recovery of the Bactrian Gold

In August 2003 a section of the Central Bank vault in the Presidential Palace was cleaned out to make room for quantities of newly printed currency. Crates were shifted, revealing tin trunks and seven safes. A government press release was issued announcing that the trunks of artefacts from the Kabul Museum deposited in 1989 were intact. Later that month President Hamid Karzai and several ministers verified that the treasures, including the Bactrian Gold, were indeed safe. In late 2003 the American National Geographic Society and the National Endowment for Humanities in Washington DC, in consultation with the Afghan authorities, agreed to undertake the inventory of what was stored in the Presidential Palace and in the Ministry. In April 2004, Viktor Sarianidi, who had brought the Tilla Tepe treasure to the Museum in 1979, was invited to Kabul to witness the opening of the six safes containing the Bactrian Gold. One by one, the fabulous objects were unwrapped. During 36 days in the spring of 2004, surrounded by security guards from the Presidential Palace, the Central Bank and the Museum, the team catalogued the

entire Tilla Tepe collection of 20,457 items on 453 datasheets. Not the smallest appliqué was missing. New safes were bought and the Bactrian Gold was repacked and again deposited in the vault (Plates 6–11).

Inventory Continued

A database inventory system had been set up in English and Farsi, this time using laptop computers, printers, scanners, lights, a digital camera, digital calipers and scale, and museum-quality packing materials, and with more detailed data fields: Catalog by, Catalog Date, Photo No., New Kabul Museum No., Old Kabul Museum No., Field No., Site No., Object Name, Category, Collection, Period, Culture, Found, Date Range, Material, Technique, Dimensions, Number of Objects, Condition, Description, Current Location, Comments, and Signature of Store-Keeper. The data were written by hand on individual English and Farsi datasheets. Color photographs were taken of each object and transferred to a computer. Two small copies were printed out and pasted on the English and Farsi datasheets, then scanned with multiple copies printed out. These were then collected in binders according to sites with two datasheets back-to-back in plastic pockets for various Ministry and Museum departments. Since all previous records had been destroyed, the establishment of a viable inventory system was a significant step toward providing a new identification system for all existing and future objects, as well as for the Farsi and English databases.

The Core of the Collection Turns Out to be Rescued

The inventory in the Presidential Palace continued in August (Plate 63a). Trunks were brought up from the Central Bank vault containing the ivories, bronzes, ceramics, marble and glass treasures from Begram. The more than 100 ivories catalogued included the *leogryph* console, the three standing *yakshis*, the largest examples of ancient carved ivory in the world, and dozens of incised panels, carved openwork plaques and friezes. All the Hellenistic bronzes were intact, as was all the gold jewelry. The glassware included the Pharos of Alexandria, the *millefiori* bowl, blue glass vases and bowls, the dolphin flasks and the painted goblets. All the alabaster and porphyry vessels that were on display were intact. Among the Greek plaster emblemas was the Head of a Poet, Eros Holding Psyche as a Butterfly, Aphrodite

and Ganymede. Thirteen of the 14 ceramics on display were intact, including the blue-green glazed pottery vessel in the shape of a bird-woman. Also from the vault emerged over one hundred objects from Hadda (Plates 54 and 55), numerous large figures from Fondukistan (Plate 56), the giant footprint of the Buddha and the Buddha head from Kama Dakka, the Qol-i-Nader reliquary, many terracotta heads from Tepe Khazana and the unique *rhyton* from Kona Masjid in the shape of ram's horns holding a smiling male head with snail curls between the horns. Also intact was the gilded silver Cybele plaque from Ai Khanum (Plate 4), the fragments of gold vessels from 2500 B.C. Tepe Fullol, the gold belt buckle from Surkh Kotal, the fifteenth millennium B.C. limestone head from Aq Kupruk, the oldest sculptured specimen found in Asia (Plate 5), and the second millennium B.C. bone seal with winged camel, SPACH's logo, from Shamshir Ghar (Plate 48b). Over a thousand gold coins and over 300 silver coins, including the Bactrian double *decadrachmas* issued by King Amyntas ca. 120 B.C., the largest Greek coins ever discovered, were intact. New trunks were bought and all objects were repacked and deposited again in the vault.

The inventory continued on the fourth floor of the Ministry of Information and Culture. Trunks contained objects from Hadda, Kama Dakka, Kakrak, Tepe Maranjan, Kunduz and Mundigak, including the two third millennium B.C. Mother Goddess figurines (Plate 48a) and the third century B.C. pottery goblets with leaf, ibex and pipal designs.

In the spring of 2005 the team reassembled on the fourth floor of the Ministry, working mainly on the prehistoric collections from regions throughout Afghanistan, then moving to the Museum itself to continue cataloging the prehistoric holdings. The objects from Bamiyan and Fondukistan, as well as the huge DAFA ceramic collection of the 1950s were catalogued by experts through a UNESCO grant. The team from the Istituto Italiano per l'Africa e l'Orient (IsIAO)[6] completed the inventory of objects from Ghazni held in wooden crates in the storerooms since the early 1980s.

[6] Formerly known as IsMEO.

Missing Objects and Illegal Excavations

With the profound relief of finding so many priceless objects still intact, it cannot be denied that many were also gone. For over two decades pieces from the Kabul Museum, fake and genuine, have appeared in art markets all over the world. In 1994 the International Council of Museums (ICOM) in Paris offered to publicize the missing items, as did the Art Loss Register in London, but the uncertainties at that time made this impracticable. No looted objects from Afghanistan were ever registered with Interpol[7] or any other official international art-theft police or customs investigation agencies, obviating any legal action against auction houses, dealers, collectors, galleries or museums. From its inception SPACH in Islamabad and later Peshawar advocated the return of objects and many important artefacts were recovered, among them several Greek emblemas from Begram, numerous stucco heads from Hadda, and two small ivory animal heads from Shortugai. The large schist Gandhara friezes and the Begram ivory throne back panels (Plate 50) were reported to be in private collections in Pakistan. The incised ivory jewel casket cover (Plates 52 and 53), one of the most beautiful pieces in the Begram collection, has been sighted in various countries abroad. The white marble Hindu Shahi sculptures of Surya, Shiva and Durga from Gardez and Khair Khana are gone. In 1994 an expert was shown a back garden in north London littered with Gandhara schist Buddha figures of unknown provenance still in their wooden shipping crates. In October 2000 the Swiss 'Afghanistan Museum-in-Exile' in Bubendorf began assembling donations of Afghan art, mainly ethnographic, for safekeeping and eventual return to Afghanistan. Two ivory *toranas* from Begram and the limestone mastiff *gargoyle* from Ai Khanum, as well as twelve display panels of fragments of ivory from Begram were recovered in London.

Return of the Buddhist manuscripts from Afghanistan now in the Schøyen Collection in Norway is under discussion.[8] As recent as 2004 UK Customs Service and Scotland Yard intercepted shipments of sculptural art from third millennium B.C. Bactria, and of marble reliefs from the Islamic period, all without provenance.

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[7] Afghanistan became a member only in 2002.
[8] See Omland in this Volume, chapter 14.

Rampant illegal excavations are a major part of the plight of Afghanistan's cultural heritage. For decades ancient sites such as Ai Khanum, Balkh and Surkh Kotal, among others, have been laid waste by local treasure seekers. New sites are attacked with tractors and pick axes, their history destroyed forever. The result can be seen by the number of artefacts without provenance appearing today in art markets around the world. The Afghan ministries of Interior, Information and Culture, and the Security forces are immediately called in to track down any rumors of illicit diggings, but they are virtually helpless in the face of the powerful local warlords and the lack of security outside Kabul. A previously unknown site near Charasiab[9] had been meticulously de-mined in a straight path up to the base of the stupa; tunnels had been dug vertically and horizontally through the stupa in the search for a reliquary, all 'very professionally done', according to an Afghan archaeologist. Objects from this site had already vanished across the border. Similar things are going on all over Afghanistan.

The government in Kabul is fully aware of its responsibility of formulating and implementing a realistic national policy for the return of looted objects and for the protection of its past, present and future cultural properties during this difficult transitional period of its history.

References

Asia, The Asia Society, New York, July/August 1981.

Allchin F. R. & N. Hammond (eds.) 1978 *The Archaeology of Afghanistan, from the Earliest Times to the Timurid Period*, London.

Auboyer J. 1968 *Afghanistan et son art*, Prague.

Ball, W. 1982 *Archaeological Gazetteer of Afghanistan*, Paris.

Bombaci, A. 1959 *Introductions to the Excavations at Ghazni*, Historical Society of Afghanistan, Kabul.

'Culture Without Borders', 13, *Illicit Antiquities Research Centre*, Cambridge, 2003.

Dollot, R. 1937 *l'Afghanistan*, Paris.

Dupree, L. 1973 (revised 1978 and 1980) *Afghanistan*, Princeton.

Dupree, N. Hatch 1972 *An Historical Guide to Kabul*, Kabul.

Dupree, N. Hatch, L. Dupree & A. A. Motamedi 1974 *The National Museum of Afghanistan. An Illustrated Guide.* Kabul.

Melikian-Chirvani, A. S. 1976 *The National Museum Catalogue of Islamic Metalwork*, UNESCO Report, Paris.

[9] Comparable with a small Surkh Kotal: with monumental stairs, a temple and a stupa.

Mémoires de la Délégation Archéologiques Française en Afghanistan, Vols. I–XXXII, Paris, 1942–90.
Rowland B. & F. M. Rice 1971 *Art in Afghanistan*, London.
Sarianidi, V. 1985 *Bactrian Gold, from Excavations of the Tillya Tepe Necropolis in Northern Afghanistan*, Leningrad.
Talley Stewart, R. 1973 *Fire in Afghanistan 1914–1929*, New York.
Tissot, F. 2002 *Kaboul, le Passé Confisqué*, Paris.

PART TWO

THE SITUATION IN THE FIELD

CHAPTER FIVE

PREHISTORIC AFGHANISTAN: STATUS OF SITES AND ARTEFACTS AND CHALLENGES OF PRESERVATION

Nancy Hatch Dupree

Afghanistan's spectacular historic finds confirm its strategic geopolitical position as an intercommunicating zone linking three great civilizations. The passage of personages such as Alexander of Macedon makes stirring reading. The passage of Zoroastrianism, Buddhism, Hinduism, and Islam left vestiges that increase our understanding of world religions. The passage and interchange of luxury trade goods provide insights into the glories of ancient Rome, Mesopotamia, Egypt, India, Central Asia and China. The mingling of such diverse peoples inspired artisans, jewelers, sculptors and writers whose skills reflected the fusion of a wide assortment of creative ideals within their communities. These local artistic innovations then spread far beyond and were assimilated by other cultures.

Historians and travelers throughout many centuries were captivated by the country's artistic richness. Archaeologists sunk their spades with stupendous results. Few, however, contemplated the doings of prehistoric man. Their story, nonetheless, indicates that Afghanistan also served as a centre for singular developments during the Middle and Upper Palaeolithic periods when a variety of modern man developed physically in northern Afghanistan and revolutionized Stone Age technology.

Excavations also suggest that the northern foothills of the Hindu Kush must be considered one of the early centers for the domestication of plants and animals during the Neolithic. It was this development that permitted man to control his food supply and create the surpluses that led to specialization and emerging urbanization that ultimately enabled him to indulge in the artistic achievements that burgeoned so magnificently during the later historic periods.

In the first part of this contribution a summary will be given of the extraordinary prehistoric finds in Afghanistan. The second part will focus on the many challenges Afghanistan faces with regard to

preservation of Afghanistan's sites and artefacts in general, and prehistorical sites in particular. In the last part some stimulating recommendations will be summed up.

Summary of the investigations

In the late 19th century a few intrepid travelers made an occasional note of prehistoric debris in their meticulous jottings, but scientific investigations began only after World War II. The following summary highlights the work that was done from that time up to 1978 when work all but ceased because of the current ongoing conflict. It should be noted that the dating is very broad, indicating only major prehistoric periods applicable for the Afghan area, with the approximate dates within these large categories.

In all, some 133 sites were identified; only 17 of which were excavated to any extent. For the rest, scattered surface finds of lithic material, pottery and occasional metal fragments present tantalizing hints for the future.

The French

Teams from three countries led in this research. The French did sink some pits as early as 1936 in mounds dating from the Iron Age (early 1st millennium B.C.) near Nad-i-Ali in southwest Nimruz Province. However, it was their excavations conducted from 1951–1958 that brought to light the first evidence of the growth of a small agricultural village into a densely populated town. The monumental Bronze Age/Iron Age site at Mundigak northwest of Kandahar (4th–1st millennium B.C.) contained grandiose public buildings and granaries and maintained links with the great Indus Valley cities of Harappa and Mohenjo-daro in what is now Pakistan. Artefacts included sizeable collections of fine painted-pottery goblets, terracotta figurines, steatite seals, bronze and copper implements and mirrors, jewellery, and a superb sculptured limestone male head.

More specific evidence of trade with the Indus Valley was later found in 1975–79 in the northeastern province of Takhar at the Bronze Age site of Shortugai (end of 3rd–2nd millennium B.C.). Here the presence of a Harappan trader's seal indicates that trade routes criss-crossed the landscape since very early times. Many sur-

veys identified Epi-Palaeolithic, Bronze and Iron Age sites from Takhar to Samangan, as well as in the southwest.

The Americans

The Americans came in 1949 specifically to survey prehistoric sites. Their work covered the area southwest of Kandahar, and north up into Farah Province. The large Shamshir Ghar cave overlooking the Arghandab River near Badwan, Kandahar Province, began with three Bronze Age levels (2nd millennium B.C.). It was excavated in 1950. The 1951 excavations at the Bronze Age site of Deh Morasi Gundai (4th–3rd millennium B.C.) suggested this semi sedentary satellite village supplied Mundigak with agricultural products, mirroring modern settlement patterns.

Later excavations took place in 1968 and 1970 when a mound near Nad-i-Ali called Surkh Dagh produced evidence of occupation during the Iron Age (early 1st millennium B.C.), and Bronze Age occupation was uncovered at Sayed Qala Tepe (3,500–2,100 B.C.), near Panjwai in Kandahar Province.

The first Stone Age caves to be scientifically explored were those excavated north of the Hindu Kush in 1954 at the Middle Palaeolithic/Epi-Palaeolithic complex located at Kara Kamar (32,000–9,000 B.C.), near the capital of Samangan Province. Major excavations undertaken from 1959–1965 at Aq Kupruk in the mountains south of Balkh, the capital of the northern province of Balkh, indicated a long occupation from the Upper Palaeolithic into the later Iron Age of the sixth century A.D., but the site is known principally for its Upper Palaeolithic finds (18,000–10,000 B.C.). About 20,000 flint implements were recovered from the Aq Kupruk sites. Tool technology by this time had advanced so significantly that the toolmakers of Aq Kupruk are known as the Michelangelos of the Upper Palaeolithic. A unique sculptured limestone pebble representing a human head (Plate 5) may not come up to the standards of Michelangelo, but it is the oldest sculptured specimen yet found in Asia (15,000 century B.C.).

The Neolithic levels at Aq Kupruk beginning around 9,000 B.C. contained domesticated wheat and barley seeds, domesticated sheep and goat bones, sickle blades to reap the grains, and, after 5,000, crude pottery as well. A later Neolithic, around 4,000 B.C., occurred further east, at Darra-i-Kur near the hamlet of Baba Darwesh in

Badakhshan Province. This cave once overlooked a lake long since disappeared. Excavations in 1966 produced finds ranging from the Middle Palaeolithic to the Bronze Age (50,000–1,900 B.C.) that included a large fragmentary human temporal bone from the Middle Palaeolithic level (50,000–30,000 B.C.), which appears to be transitional between Neanderthal man and modern man.

A large cave near Gurziwan with Middle Palaeolithic to Bronze Age lithic and ceramic material (50,000–2,000 B.C.) and the Iron Age Gharluli cave (2nd–1st millennium B.C.), both way to the west in Faryab Province, were investigated in 1969 and 1970.

In 1976, just before the 1978 war began, a surface scatter of Lower Palaeolithic (?–50,000 B.C.) tools were found on the eastern terraces of the Dasht-i-Nawur, a large brackish perennial lake west of Ghazni that still provides breeding and nesting areas for large numbers of migrating waterfowl. At the northern end of the Dasht a significantly large number of Epi-Palaeolithic obsidian microblades (10,000–8,000 B.C.) were collected from the surface, representing the first obsidian assemblage yet found in Afghanistan.

The Russians and Afghan/Soviet Archaeological Mission

The Russians, and after 1969 as the Afghan/Soviet Archaeological Mission, were very active across the northern provinces from Faryab to Samangan to, where they conducted numerous surveys of surface sites on and around the sand dunes lining the south bank of the Oxus River. Many microliths characteristic of the Epi-Palaeolithic were found. Two late Bronze Age sites (2,300–1,700 B.C.) among the series of some 33 mounds in the Dashli Oasis between Balkh and Aqcha in Jauzjan Province were excavated in 1969. Dashli 3 contained massive defensive walls, palaces, storage facilities and other public buildings, including a large circular structure that may have been a temple. Fine ceramics, bronze weapons, flints and jewellery were recovered. The Dashli sites expanded the picture of a dynamic Bronze Age in Afghanistan and are extremely important for the study of the development of urbanization in Central Asia.

In 1973, the sprawling Kumli settlements in Balkh Province represented by eight mounds stretching northwards towards the Oxus over a nine-kilometer area provided further evidence for later developments during the Iron Age (7th–6th centuries B.C.).

This work was but a prelude to the discovery that would bring worldwide renown to the Afghan/Soviet Mission and Afghanistan. The hoard of more than 20,000 pieces of gold from Tilla Tepe (Plates 6–11), Jauzjan Province (100 B.C.–200 A.D.), sheds all important light on the transition between the collapse of the Bactrian dynasties and the rise of the Kushans, a period that had hitherto lain shrouded in mists of uncertainty. But the burials that held this treasure were sunk into the remains of an imposing Early Iron Age temple fortified by stout ramparts that had once been used by fire-worshippers towards the close of the second millennium B.C., about the time it is thought Zoroaster preached in the vicinity of neighbouring Balkh. The golden hoard burials were excavated in 1978, but work on the mound had been going on intermittently since 1969.

Other Countries

Teams from other countries, such as Britain, Italy, Germany and India, also pinpointed prehistoric sites. In 1962, the Italians investigated an amazing scatter of Epi-Palaeolithic and Neolithic stone tools littering the floor of the Hazar Sum Valley in Samangan Province (10,000–7,000 B.C.). In 1965, they excavated the rock shelter of Darra-i-Kalan southwest of Kara Kamar where Upper and Epi-Palaeolithic materials were found dating 15,000–7,500 B.C. The British studied surface collections from Hilmand Province in 1966, but their main excavations were undertaken in the old city of Kandahar from 1974–78, where sustained, almost uninterrupted, settlement was noted since the Bronze Age in the second millennium B.C.

Geographic Distribution

Surveyed and excavated prehistoric sites cluster in several areas. Palaeolithic and Neolithic sites appear mainly in the northern foothills and on the plains south of the Oxus River. Only the yet to be fully explored Dasht-i-Nawur sites sit in the east. Bronze Age sites cover the same general span of the earlier periods in the north, but include a wider area stretching eastward into the mountains as far as Takhar and Badakhshan. In the south, another Bronze Age cluster exists around Kandahar and probes far west into Nimroz and up into

Farah. For the Iron Age the focus swings again to the north and northeast, particularly in Samangan and Takhar.

That Bronze and Iron Age occupations are so clustered is in no way surprising for long-distance trading thrived during these periods when the early trade routes crossed through both southern and northern Afghanistan. But the paucity of information that exists from other parts of the country, especially around Herat, makes it difficult to answer many questions about early contacts beyond Afghanistan's borders.

It is known, for example, that lapis lazuli from Badakhshan was a major trade item exported to India, Egypt and Mesopotamia during two main periods in the Bronze Age, from the middle to the end of the third millennium B.C., and around 1,350 B.C. In these areas lapis was prized for its supernatural powers and medicinal qualities, as well as for adornment. Quantities of excavated lapis beads, finely carved pendants of many shapes, rings, cylinder seals and golden objects adorned with this semi-precious stone prove that a lucrative trade existed with these distant lands, as well as with cities along the way such as Persepolis. But just how lapis arrived at the centers of these great civilizations is not clear. Much remains to be learned about how these networks functioned.

Searching for prehistoric evidence in caves, at campsites and settlements, nevertheless is an arduous pastime. Palaeolithic man chose to live near sources of water that attracted the wildlife on which the survival of their communities depended. Many of these water sources have long since disappeared. Where the water sources still exist, as at Aq Kupruk, caves and open air sites overhang swiftly flowing rivers making access extremely precarious. The limestone caves and rock shelters once used for shelter and the terraces on which they camped or used for observation posts are now hard to identify. However, the litters of thousands of tools washed out of high caves that now lie strewn about dry riverbeds frequently signal the presence of old occupations. Sturdy 4-wheel drive vehicles, strong legs, healthy lungs and stout hearts are prerequisites for early prehistoric research in Afghanistan.

After the Neolithic Revolution when plants and animals were domesticated some 4,000–11,000 years ago, groups moved onto the plains where planting was easier and water more plentiful. By the Bronze and Iron Ages these communities needed grain storage facilities, fortifications and weapons to protect their growing wealth, sub-

stantial residential sections for artisans, traders and administrators, bazaar areas, large religious complexes and administration buildings to service the complexities of urban living. Most of these locations are off the modern roadways, but are relatively easier to reach than the earlier sites.

This summary, short as it is, indicates now varied and wealthy the prehistoric sequences are, even if the surface has barely been scratched.

Status of Sites and Artefacts

Because of their remote locations, because Palaeolithic tools are difficult for non-professionals to identify and because these artefacts possess minimal attraction for looters and stolen art dealers, caves and rock shelters were never in much danger of being disturbed. It seems doubtful if any have been plundered during recent times.

In the past, however, sites on the plains were always vulnerable. Before the war the mounds west of Mazar-i-Sharif, such as those in the Dashli Oasis, were popular with the general public for weekend outings. Seeking a little entertainment, bored families of government servants exiled from swinging Kabul in the 1960s and 70s, came by the car full to scrounge around in the excavations looking for treasure. They threw aside such objects as the delicate high-stemmed ceramic serving dishes that were so very elegant, shattering them into thousands of fragments. All efforts to stop these weekend marauders were fruitless even at that time when law enforcement was relatively efficient.

Many Bronze Age objects could be picked up from sidewalk vendors in Kabul before the war. The variety of beautifully crafted bronze seals was fascinating. In addition, semi-precious beads, bronze weapon blades of intriguing shapes and sizes, as well as toiletries were available, including graceful bronze jars for eye makeup with slender applicators still in place. Reasonably priced, small and easy to carry, these artefacts were immensely popular with the hoards of tourists visiting Kabul in the 1970s. Diplomats and resident businessmen also delighted in amassing large collections.

Protection Policies

Museum officials were fully aware that much vital information was lost when these singular objects vanished from sight. Yet no effort to salvage them for the museum was made because the authorities rigidly adhered to UNESCO's dictum that governments should purchase no illegally excavated objects. To do so, it was said, unduly stimulated illicit trading. The controversy over the propriety of acquiring unprovenanced and looted objects under any circumstances still rages.[1]

Earlier, the government had followed a more aggressive policy. In 1966 word reached Kabul that a hoard of Bronze Age gold and silver vessels had been found, most probably by farmers digging in their fields. Government officials were promptly dispatched to the area around the Khosh Tepe mound (also referred to as Fullol) at Sai Hazara village in Baghlan Province, and the items were confiscated. Unfortunately, by the time the officials arrived most of the vessels had been cut into pieces so as to even the shares sold to local goldsmiths and silversmiths in the bazaar. The weight totaled 940 grams of gold and 1,922 grams of silver.

Nonetheless, it is possible to surmise that the Khosh Tepe hoard represents trade items exchanged for lapis from the nearby mines in Badakhshan. Styles associated with Mesopotamia, Iran, India and Central Asia dominate the decorative motifs. This suggests that the objects came from different sources, even at different times during the second half of the third millennium and in the second millennium B.C. Most probably date ca. 2,500 B.C. The Khosh Tepe specimens, therefore, shed light on the widespread trade that flourished over the centuries.

The government also successfully saved a hoard of 13,000 coins dating from the fourth century B.C. onwards, accidentally found in 1947 at Mir Zakah in Paktiya Province. The government was strong enough at that time to retrieve the coins and stop further digging.

Illegal Excavation and Illicit Trade

However, by 1992 after all semblance of central control had vanished, the villagers resumed extensive, highly organized excavations

[1] See also van Krieken-Pieters in this Volume, chapter 13.

at Mir Zakah and recovered an estimated 2–3 tons of coins, in addition to 200 kilograms of gold and silver objects. Officials from the Institute of Archaeology were ordered to proceed to the site to stop the digging, but as the Director wryly noted, security was so bad a regiment of soldiers would have been needed just to protect the staff. As a result, most of this incomparable material was sold in Peshawar at exorbitant prices and is consequently lost to Afghanistan.

Furthermore, when the archaeologists left Tilla Tepe in February 1979, a seventh burial lay unexplored. Armed guards were posted and assurances of protection were obtained from the governor, but by the next spring gold ornaments and Chinese mirrors similar to those that had been excavated appeared for sale in Kabul. An investigation was launched, but the shopkeeper decamped.

During the war, major prehistoric pieces were not in much evidence in Peshawar. This is not to say that some were not closeted out of sight for favoured customers or sent directly to collectors abroad, as were the fine Gandharan specimens. A case in point occurred when a representative of a group of smugglers offered to sell a lot of six decorative plaster molds from Begram that had been looted from the Kabul museum. Casually thrown in with these was a miscellany of other items, including two Bronze Age seals from Shortugai. One was the all-important Harappan trader's seal depicting a rhinoceros, the only physical evidence to date that Harappan trade extended so far north.

It is clear from these examples that police protection is equally as important for prehistoric sites as it is for the later sites. It is foolish, however, to think that this is either feasible or practical under the prevailing unstable conditions. There is neither manpower nor funds nor a general willingness to provide such protection. Consequently, the plundering of sites has increased measurably since the installation of the present government. It is not only more widespread but interventions are far more dangerous than ever before.

Kabul Museum

The situation at the museum poses special problems. What prehistoric material was looted from the Kabul Museum is an open question. After the fall of the Najibullah government in 1992 a succession of looted museum pieces began to surface in Kabul and both the Ministry of Information and Culture and private individuals began

to purchase pieces for return to the museum. The listing of those items recovered by the ministry has yet to be released, but one lot donated in 1995 by a private individual contained four out of the museum's 17 Khosh Tepe pieces.

Meticulous inventories were carried out from 1996–2000 when items remaining in the museum were eventually transferred for safe-keeping to the Ministry. These included a few items from a limited number of prehistoric sites, but the frenzied forays on these store-rooms made by the Taliban in 2001 so disarranged things that a new inventory had to be taken (Plate 63a). The new inventory was begun in April 2004.[2] All major prehistoric artefacts, including the Aq Kupruk and Mundigak heads, were found.

It seems doubtful that many of the prehistoric surface collections were included with the objects shifted after 1996. One observer graphically describes groping his way into the pitch dark prehistoric storeroom in the days before electricity had been reinstalled, to find himself treading on a carpet of flint tools fallen from disintegrated specimen bags.

What Can Be Done?

As the above discussion points out, prehistoric sites are no less in need of protection than later sites. Unscrupulous dealers, both Afghan and foreign, are more active now than ever. Laws are promulgated, but the resources to enforce the laws lack manpower and funds. Central authority has no teeth. Public apathy compounds the root problems. Reconstruction activities now forging ahead with single-minded enthusiasm threaten to overwhelm cultural sites, particularly prehistoric locations whose importance is beyond the ken of developers.

Protection of Sites

Certainly protection of sites is a primary necessity if the hemorrhaging of Afghanistan's cultural heritage is to be stemmed, but to demand that international or national institutions provide this pro-

[2] See Grissmann and Cassar & Rodriguez in this Volume, chapters 4 and 1.

tection is simply unrealistic rhetoric that must be ignored for the good reason that the required infrastructure does not exist and will not exist for some time.

Involvement of Local Communities

What do exist are communities, and individuals within these communities. The rationale of involving local communities in heritage resource management is not well understood in Afghanistan. Yet the benefits are clearly evident in any numbers of locations throughout the country where historical monuments that survived the vicissitudes of the recent wars have maintained their integrity precisely because they were regarded as living parts of the communities that sheltered them. Efforts to raise awareness to nurture similar feelings of community responsibility toward archaeological sites near their settlements must be initiated.

Public Apathy

Central to nurturing responsible community awareness is the need to overcome the public apathy that lies at the root of so many problems. The fabric of many inner towns and cities was severely compromised before the war and the process accelerates. While ancient buildings are defiled, neglected to the point of no return and pulled down in favour of potentially more lucrative construction, the population looks on with scant concern.

Public apathy stems from the absence of basic knowledge and is particularly acute where the prehistoric is concerned. One telling example from the past is the case of a former minister who was highly regarded among the intellectual community. When he visited Aq Kupruk before the war, the archaeologists proffered their beautiful tools for examination with understandable excitement only to have their spirits dashed when the minister dismissed their offerings with a shake of his head, saying: 'Oh no! Afghans were never so primitive.'

Awareness-Raising

Attitudes must change and attitudes will change only through understanding activated by inspiring accurate information. For this

imaginative advocacy awareness-raising efforts provide the best outlets for action. Many scoff at the very mention of awareness-raising for the tendency is to favour spending masses of money on flashy impact efforts for maximum effect in a minimum of time. These efforts are seldom sustainable.

Schools

Advocacy and awareness-raising take time and patience. Beginnings must be made through the school system. In the past, heritage was not included in school curricula except in a most cursory fashion. Now three generations of refugee children have grown to maturity with little or no knowledge of the wonders that exist in their homeland. Few educators take cognizance of the fact that the splendid matrix of Afghan culture provides untold opportunities to enliven learning. Happily, today there is a growing interest at high levels in education reform. While those who have struggled over the past many years with textbook revisions will smile indulgently, introducing culture into the curriculum still remains a crucial essential on which so many other efforts depend.

School courses and community education programmes need to be enhanced by supplementary reading materials. If experience elsewhere in the world is any indication, the prehistoric will certainly be slighted. Publications in Afghanistan on the prehistoric are now couched in writing so excruciatingly turgid they numb the mind. It is time to attract the attention of those experts versed in exciting new communication techniques so as to set forth in a vivid fashion the contributions and accomplishments made during the prehistoric periods.

Radio and TV

Radio and TV airings can be used to bolster printed materials. Local radio stations are now springing up all over the country, manned by energetic young men and women open to all manner of programming that can enhance the popularity of their broadcasts. Already many have asked for material on the cultural heritage. Other methods now being explored in a limited fashion—traveling cinemas, puppet shows, circus performances—can be enlarged and utilized effectively for cultural purposes as well.

Local Museums

Another medium to be explored is a network of small local museums. Requests from local initiators in several provincial communities have also been received. Though yet to be acted upon, they warrant serious consideration. Handled with ingenuity and creative thinking, local museums can fulfill a multiplicity of roles. By developing a sense of continuity with the past, museums imbue individuals with feelings of pride in having had a part of what has gone before them, and this sharpens their appreciation of the present and gives rise to higher expectations for the future. This in itself is a potent nation building process of value for war-torn Afghanistan.

But a great deal of imaginative thinking and planning is needed before local museums can be effective. The crowded, dusty displays devoid of accompanying learning aids that characterized local museums before the war simply will not do. The displays need to convey the idea that ancient artefacts illuminate the course of development, and presented in ways that permit viewers to identify with them so that through them they can gain a sense of themselves as essential parts of the nation's identity. This again needs the assistance of those versed in new techniques, coupled with imaginative thinking.

Address Building Activities

Building attitudes to enhance cultural protection needs to be addressed at all levels of government, not only among communities and civil society groups. Strategic policies to guide regional cultural development are now being formulated mainly at the centre. Failure to develop clear lines of responsibility between ministries and their sub departments was a major hindrance to cohesive management in the past, although grateful recognition is due to those few who did inform the Ministry of Information and Culture when archaeological objects were uncovered during the execution of development projects. The imposing Kushan dynastic temple at Surkh Kotal in Baghlan Province is an outstanding example. The responsible action taken by road builders who accidentally unearthed an inscribed building block in 1950 led to the excavation of one of Afghanistan's finest archaeological sites.

Now this responsible attitude must be inculcated anew. The archaeologists at Tilla Tepe relate the gripping story of how they arrived at the site one day to find men at the gears of monstrous road building equipment throwing up an embankment by heartlessly gouging

into the excavated area, crushing potsherds and flattening ancient dwellings with the treads of their bulldozers.

Today's technicians in charge of development projects, many of whom have only recently returned from years of exile, are impatient with vestiges of the past. For them it is easier to raze the old in order to raise the new. Most have had no opportunity to learn about their past. Prehistoric sites are particularly difficult for the uninitiated to comprehend. Maintaining strong information-sharing links with all levels of decision-making authority is clearly indicated, but an aggressive campaign to win their cooperation requires much advocacy and awareness-raising.

Concluding Remarks

Some may well say that these suggestions are as far-fetched as expecting regiments of law enforcement forces to suddenly appear at archaeological sites. Granted, it will not be easy. Granted, this approach takes time and patience. Granted, the stolen art business continues to thrive globally despite high levels of education and awareness in other countries. Granted, the dark side of raising awareness can play into the hands of grasping dealers.

Nevertheless, cases where dedicated local leadership has made a difference can also be cited. Fortunately, opportunities to elicit the cooperation of major communication players increase daily in Kabul. The development environment is alive with ideas for the potential introduction of new technologies with unprecedented dimensions that can be marshaled for disseminating cultural information. Donors as well as entrepreneurs talk in expansive and grandiose terms. Buying into this great fund of expertise and enthusiasm should be the objective of all those concerned with heritage protection and preservation. The time to tap this enthusiasm is now. The responsibility to initiate a wide variety of actions among a wide range of actors falls squarely on communities and concerned individuals. All that is needed are fertile minds, vision, imagination, optimism and a can-do outlook. The challenges are great. Are there any takers? That is the question.

References

Allchin, F. R. & N. Hammond (eds.) 1978 *The Archaeology of Afghanistan, from the Earliest Times to the Timurid Period*, London.

Ball, W. 1982 *Archaeological Gazetteer of Afghanistan*, 2 vols., Paris.

Bopearachchi, O. & A. ur Rahman 1995 *Pre-Kushana Coins in Pakistan*, Karachi.

Bowersox, G. W. 1995 *Gemstones of Afghanistan*, Tucson, Arizona.

Casal, J.-M. 1961 *Fouilles de Mundigak*, 2 vols., Paris, Mémoires de la Délégation Archéologiques Française en Afghanistan.

Coon, C. S. 1957 *Seven Caves*, New York.

Dales, G. F. 1972 'Prehistoric Research in Southern Afghan Seistan', *Afghanistan* 24, 4, 14–40.

Davis, R. S. 1969–70 'Prehistoric Investigation in Northern Afghanistan', *Afghanistan* 22, 3–4, 75–90.

—— 1974 *The Late Palaeolithic of Northern Afghanistan*, Ann Arbor.

Davis, R. & L. Dupree 1977 'Prehistoric Survey in Central Afghanistan', *Journal of Field Archaeology* 4, 2, 139–148.

Dupree, L. 1958 *Shamshir Ghar. Historic Cave Site in Kandahar Province, Afghanistan*, Anthropological Papers of the American Museum of Natural History, 46, 2, New York.

—— 1963 *Deh Morasi Ghundai. A Chalcholithic Site in South Central Afghanistan*, Anthropological Papers of the American Museum of Natural History, 50, 2, New York.

—— 1968 'The Oldest Sculptured Head?', *Natural History* 77, 5, 26.

—— 1972 'Prehistoric Research in Afghanistan (1959–1966)', *Transactions of the American Philosophical Society*, 62, 4, Philadelphia.

—— 1973 *Afghanistan*, Princeton.

—— 1976 'Results of a Survey for Palaeolithic Sites in the Dasht-i-Nawur', *Afghanistan* 29, 2, 55–63.

Dupree, N. Hatch 1977 *An Historical Guide to Afghanistan*, second edition, Kabul.

Dupree, N. Hatch, L. Dupree & A. A. Motamedi 1974 *The National Museum of Afghanistan. An Illustrated Guide*, Kabul.

Fairservis, W. A. 1950 'Archaeological research in Afghanistan', *Transactions of the New York Academy of Science series* 2, 12,5, 172–174.

Francfort, H.-P. & M.-H. Pottier 1978 'Sondage preliminaire sur l'establissement protohistorique harappeen et post-harappeen de Shortugai', *Arts Asiatiques* 34, 29–79.

Ghirshman, R. 1939 'Fouilles de Nadi-Ali dans Seistan Afghan', *Arts Asiatiques*, 13, 1, 10–22.

Hammond, N. 1990 'An archaeological reconnaissance in the Helmand Valley, South Afghanistan', *East and West* 20, 437–459.

Motamedi, A. A. 1975 'Prehistoric Afghanistan', *Afghanistan* 28, 85–93.

—— 'Bronze Age sites in North-East Afghanistan', *Afghanistan* 32, 3, 1979, 49–55.

Puglisi, S. M. 1963 'Preliminary report on the researches at Hazar Sum (Samangan)', *East and West*, 14, 3–12.

Sarianidi, V. 1971 'North Afghanistan in the bronze period', *Afghanistan* 24, 2–3, 26–38.

—— 1977 'Bactrian Centre of Ancient Art', *Mesopotamia*, 12, 97–110.

—— 1985 *Bactrian Gold from the Excavations of the Tillya-Tepe Necropolis in Northern Afghanistan*, Leningrad.

Schaffer, J. G. 1978 'The later prehistoric periods', in *The Archaeology of Afghanistan*, F. R. Allchin & N. Hammond (eds.) 71–86.

Tosi, M. & R. Wardak 1972 'The Fullol Hoard. A new find from Bronze Age Afghanistan', *East and West*, 22, 9–17.

CHAPTER SIX

A TSAR'S NECROPOLIS IN THE KARA KUM DESERT

Viktor Sarianidi

Viktor Sarianidi excavated the famous Bactrian Hoard, one of the greatest treasures ever found in Afghan soil. His most recent digs did take place in South-East Turkmenistan, a region so closely connected with Bactria, North Afghanistan, that the culture is described as the Bactria-Margiana Archaeological Complex (BMAC). (ed.)

Gonur, Capital of Ancient Margush

In the third millennium B.C. the ancient city of Gonur became the capital of the ancient country of Margush located in the far south-east of the modern Turkmenistan, on the edge of one of the greatest deserts of the world—the Kara Kum. In this currently parched desert an extensive river, the Murgab, was running through it at that time; its water abundantly irrigated those generous lands.

Among the many dozens of ancient agricultural oases of Margush, the capital is the ancient town of Gonur, being a unique architectural ensemble with a magnificent palace in its center and ancient temples surrounding it on all sides. In those temples the preparations for and the carrying out of oblations took place.

To the north from the palace a vast square was located where so-called 'public repasts' occurred. In the southern part there was a grand natural basin (with its general dimensions of 130 × 85 m and a depth of about 2.5 m), surrounded by two 'Temples of Water' on two sides.

A Tsar's Necropolis

Due to excavations in 2004, it was discovered that before the erection of the aforementioned architectural ensemble with a palace in

its center, at the eastern end of the basin, a small tsar's necropolis was built which belonged to the earliest rulers of the ancient country of Margush during the last centuries of the third millennium B.C. (Plate 36a).

In the reported excavations seven tombs were excavated on the territory of that necropolis. Those tombs were orthogonal underground burial constructions with an area of 30–40 square meters dug in the ground. They were faced with raw bricks from the inside and sometimes just coated with earthen plaster. Unfortunately, neither of the tombs retained its upper bridging. Thus the question of their construction remains open. Anyway, there are solid grounds to consider that the tombs were built as lesser models of houses and sometimes of bedrooms, imitating real houses, which, as it was shown by M. Gimbutas long ago, is typical of Indo-European nations and of the Indo-Iranians par excellence.

Available direct archeological data and observations testify to the fact that a consistent ceremony of burying was in practice in those tombs. While burying another deceased person, the previous one lying in the center of the tomb was roughly moved aside (Plate 36b) and the new departed person was put in his place. That is why the entries to all the tombs (when it was possible to discern this) were always built with bricks placed tightly together but, at the same time, without earthen greasing between them, which allowed the bricks to be dismantled quickly and easily so that one could enter the burial place to lay another deceased person to rest. Entries to several tombs have a low gradiant in the form of a rampart, and in tomb Nr. 3235 even a staircase with seven brick steps remained which led from the surface to inside the tomb. As a rule, on the outside, on the surface near each tomb there are orthogonal brick altars which burnt from the outside. Near the parade tombs several commemoration altars were present.

Mosaics

The interiors of almost all of the tombs were richly decorated with figured inlaid mosaics which, running down the walls on to the floor, was of no value to plunderers, and so had remained until these excavations, although in a destroyed form.

It should be mentioned that almost all the tombs were plundered as far back as in ancient times (in fact, more than once!), and the

relatives of the deceased were aware of this. Thus they tried to hide the most valuable burial items under the floors and even behind the walls of the tombs. At any rate, articles made of gold, silver and ivory, which became a lucky find for the archeologists, were found in such hidden places in tomb nos. 3210, 3220 and 3235.

Apart from the walls of the interior of the tombs, peculiar '*ostensoriums*', small earthen 'bins' completely covered with an inlaid mosaic coating, were found either in the form of leonine *griffons*, with a horn and a beard, placed in the cartouches, or entire compositions in the form of separate pairs of leonine *griffons* shown in an aggressive, evidently contending pose, with fierce teeth. It should be remarked that those are perhaps the most ancient mosaic compositions, relating to the end of the third millennium B.C.

Among those compositions there are the images of winding serpent dragons devouring peaceful cloven-footed animals like goats or rams having long sharp teeth thrust into their bodies. The wide variety of images of different animals is witnessed by the finding of figured mosaic plates depicting either anthropomorphic heads of panthers, boars, or wolves.

Together with those fantastic characters there are realistic images like, for example, mosaic figures of eagles in a heraldic pose with their wings outspread but for some reason without their heads which, it is possible, were initially stuck on to their bodies and which were later knocked over by plunderers.

It is indicative that while creating inlaid mosaic images Margush craftsmen used combined technology—mosaic was complemented with multicolored painting, which allowed brighter and more colorful images to be created. The technology of inlaid mosaic that consists of figured insets is striking due to the variety of intricate shapes and their precious accuracy. That technology allowed large impressive mosaic panels to be created using different combinations of geometric figures like hearts, lozenges, circles and squares, etc.

A multicolored painting of a miniature woman, which was in rather poor condition, is of particular interest; it is supposed to represent the ethnic Margush inhabitants of the third millennium B.C.

Carved Ivory

At the same time we should remark on the high quality of the carved bone items, especially the items made of ivory. Together with different geometrical insets in the shape of circles, rectangles and squares which were almost always decorated with round ornaments, more complex compositions are known like, for instance, a toiletary spoon of the Egyptian type cut in the form of a winged lion-headed *griffon* from whose jaws a cocked antelope's head is hanging in horror.

Generally speaking, ivory items are not rare for the tombs in question, and considering the fact that elephants were not known there, they are evidence of the widespread trade relations with the Indian subcontinent. This is also evidenced by another finding, not from the tombs but in the 'Temple of Water' of the same Gonur, of a typical Harappa seal which, according to the famous Indianist A. Parpol, was imported from the Indus Valley which proves that there were direct contacts between civilizations in the Bactria—Margiana region and the Harappa civilization as far back as in the third millennium B.C.

Stone Statuettes

Although there are no natural stones in the Murgab Valley and consequently stone items are comparatively rare, in tomb Nr. 3220 a stone image of a ram was put under the head of the deceased, being stylistically similar to an analogous image from Mohenjo-daro.

In addition, in tomb Nr. 3210 two miniature statuettes made out of marbled stone were found: one in the shape of a wolf's head and another, which is even more interesting, in the shape of a horse with a saddle on its back. This is evidence of 'horseback' riding at that time and confirms the presence of 'riders' among the local elite. That is also evidenced by the finding of a miniature warning pipe in the same tomb. That pipe was apparently used for signaling during the rearranging of horses ranks as was earlier supposed by the French academic R. Girschman.

Besides, in tomb Nr. 3200 there were figures of male eagles depicted in the same way as on the mosaic panels, in other words in a heraldic pose. Their strength and power is depicted by convulsively clinched bird arms. The edges of their wings and tails were covered with gold foil.

Golden, Silver and Copper-Bronze Objects

Finally, hidden in tomb Nr. 3220 there were more than thirty golden, silver and copper-bronze vessels and high narrow-mouthed decanters, open cups and especially bowls. As a rule, they all have smooth surfaces and only two of them are decorated with complex compositions in a high relief. One such silver vessel in the form of a can is decorated from the outside with a scene of two parade camels slowly following one another; those camels are depicted in an amazingly realistic manner and are completely biologically accurate, right up to the carefully combed, wavy wool and corn pads on their knees!

On another silver bowl one can see a relief composition consisting only of animals (Plates 37a and 37b). In the upper register the composition represents a bear cub with an inverted head standing all alone, supposedly among the mountains, and behind it is a wolf with its tongue hanging out due to fatigue after following a hare which is running away from it. That part of the composition and the next one are separated by a plant (supposedly a poppy), behind which there are two standing antelopes, one of which carefully touches a tree with its hoof.

In the second, lower register a strong bull is fighting with a lion reproducing the theme of a fight between those two most menacing animals of antiquity which was so popular in the Ancient East. That scene is followed by a micro-composition consisting of an antelope and a lioness half-hidden behind the mountains near a watering place with fish swimming in the water. The entire composition on the vessel is striking due to its realism and the way in which it was made in those ancient times.

The Owners of the Golden and Silver Vessels

On the bottom of many, if not all of the golden and silver vessels, there are engraved images of one and the same animal: a Bactrian camel (Plate 37c). One silver bowl is the only exception: on its bottom there is an image of a horned goat with its ears down, from whose eyes tears are flowing. And on another silver cup there is an image of, supposedly, a wheaten spike.

The consistency with which ancient jewelers were engraving the images of camels on their jewelry is not accidental and bears witness to the important role of that animal in local Margush society. In this connection one should remember that in the *Avesta*, the holy

book of the Zoroastrian followers, a camel acts as an animal being the most honorable after man and occupies a particular place in the ideological conceptions of the people and especially in symbols. In this case a logical question arises—are the camels often depicted on golden and silver vessels in the burial places of the Margush elite not evidence of the fact that in their lives they belonged to the most noble families of local Margush society? To this it must be added that on one golden and several silver vessels images of the camels are accompanied by triangular paintings reminiscent of a braced bow, although without an arrow. If that is the case a question can be raised: do those paintings not provide evidence that the owners of the golden and silver vessels belonged not simply to noble families, but to the military elite of local Margush society? However, that requires additional evidence.

To tell the truth, a similar high place in the ideological conceptions of the Margush was occupied by young rams which were in special ritual burial places in the tombs of Margiana and Bactria. Very indicative of this was the fact that they were usually encountered together with cult items, so called staffs, and, which is extremely important, different weapons (flint arrow-heads, bronze daggers, spears and harpoons), which bears witness to their particular cult status among local Margush society.

Imperial Burial Places

These are the main findings from the imperial burial places of the Gonur. The assertion that those were really imperial tombs is made on the basis of the fact that among common tombs of the analyzed type there were three tombs in which a four-wheeled cart was found and in two others the wheels had been intentionally removed from a cart and carefully placed on the floor of the tomb. All the wheels are solid, which means without arms and with plugs. They retained thick bronze rims. The weight of one such wheel is almost 30 kg, thus their full weight in each tomb exceeds 100 kg. And, although in two tombs the wheels remained untouched until the excavations, in the third one the bronze rims had been taken off and stolen by the plunderers, which once again bears witness to the value of bronze in antiquity.

Conclusion

Burial carts found in three of the seven tombs were accompanied with so-called stone staffs in combination with human sacrifices which, according to the generally accepted opinions of experts, is evidence of belonging to the higher tiers of ancient society, more likely than not to the imperial elite. That opinion is completely applicable to the analyzed tombs of the capital, Gonur.

CHAPTER SEVEN

'ON THE INDO-AFGHAN BORDER': THE GANDHARA ALBUM REVISITED

Gerda Theuns-de Boer and Ellen M. Raven

In 1899 the French art historian Alfred Foucher (1865–1952) chose the somewhat cryptic, but inviting title 'Sur la frontière Indo-Afghane, (Extraits du Journal de route d'un Archéologue)' to present part of his travelogue on his 1896–1897 winter explorations in the old Yusufzai area, now crossing the borders between Afghanistan and Pakistan. The magazine in which he published his travel account was *Le Tour du Monde: Journal des Voyages et des Voyageurs*, one of many illustrated French magazines that had come into being in the mid-19th century, in response to a broad interest in non-Western cultures. The growing travel opportunities for scholars and well-heeled individuals as well as the spectacular advancements in the printing industry greatly contributed to their success. Foucher's lengthy article, 60 pages divided up into five parts, was a perfect blend of the visual and the narrative: his descriptions of tribesmen, villages and landscapes, of ruined Buddhist sites and the exhaustive search for unrevealed art objects came along with 68 quality drawings, engravings based on photos and photo-mechanically-reproduced photographs.[1] The success of the publication can be measured from the eagerness with which the article was published in other periodicals, e.g., in the Dutch journal *De Aarde en haar Volken*.[2]

Foucher's choice for the title was motivated by at least two considerations. Not only did he actually explore the border region between the then Indian Peshawar valley and the Bajaur, Swat and Buner regions of Afghanistan, the title also allowed him to stress that the area had been a strong cultural entity during the rule of the Kushana

[1] Foucher 1899: 469–504, 541–564.

[2] Foucher 1900. This article is an abbreviated version of the French text and has less illustrations.

dynasty, roughly spanning from the first through to the third century A.D. It was a period which gave rise to a great variety of Buddhist, and, to a lesser extent, Hindu art expressions. It was this highly appreciated 'Gandharan art', called after its old geographic name, that Foucher wanted to map out when he wrote: 'l'ancien Gandhâra, devenu le pays des Afghans Yousafzais et le district anglais de Peshavar, fait onduler ses plaines jaunies et veuves d'ombre, but de notre voyage.'[3] In fact the 1896–1897 explorations served as a pilot study for this promising *but vallah*, the investigator of Buddha statues, old walls, inscribed stones and *Sita-Rami* (coins). They would be followed by new investigations which allowed Foucher finally to publish a standard reference work on Gandharan art between 1905 and 1951.[4]

Kushana Realm

From time immemorial the mountainous 'Indo-Afghan' borderlands served as a gate for settlers from the North or the West in search of a new habitat. Each group contributed elements from its own culture—language, arts and customs—to the rich melting pot beyond the Hindu Kush. Nomadic immigrants, for instance, came from the steppes of Central Asia and East Asia. Around 330 B.C. Alexander the Great conquered and crossed Iran and opened up the area beyond for Hellenism, which then enriched the Iranian, Scythian and Indian traditions. Together this amalgam would define the visual and numismatic arts of the Kushana period to an amazing extent.

A celebrated 1992 exhibition on ancient Afghanistan and Pakistan, held at the Fitzwilliam Museum in Cambridge,[5] designated the area of Bactria and Northwest India as the 'Crossroads of Asia', thus adequately capturing the political and cultural milieu of the area over which the kings of the Kushana dynasty held sway. At the height of their power, they ruled an empire stretching from the banks of

[3] Translated: 'the old Gandhara, which has become the land of the Yousafzai Afghans and the English district of Peshawar, makes the yellow plains the widow of the shade, the goal of our journey.' (Foucher 1899: 470).

[4] Foucher, A. 1905–1951. *L'art gréco-bouddhique du Gandhâra: étude sur les origines de l'influence classique dans l'art bouddhique de l'Inde et de l'Extrême-orient*. 2 vols. Paris.

[5] Errington, Cribb and Claringbull 1992.

the Amu Darya (Oxus) river in Sogdia and Bactria (now in southern Central Asia and northern Afghanistan), across the valleys of Kabul and Peshawar down to the Punjab, and from there along the Ganga-Yamuna *doab* up to the ancient centres of Mathura and Pataliputra in North India.[6] The easterly part of the realm in fact constituted the core area of 'the land of the Aryans', where from the middle of the first millennium B.C. onwards Brahmanical society had faced serious challenges through the heterodox teachings of the Buddhists and the Jainas. Buddhism had gained a foothold in the Northwest as well, perhaps by the end of the third century B.C. and definitely by the early second century B.C.[7]

In particular nationalist historians of India tended to characterize Kushana rule as a basically 'foreign', nomadic interlude in an otherwise truly 'Indian' political history of North India. However, this picture takes insufficient notice of the complex fluidity of political entities and cultural identities of northwest Indian rulership in the turbulent period around the turn of the first millennium A.D. The Kushanas indeed traced their descent to the Chinese nomadic Yuezhi and were proud of these nomadic roots, as can be discerned from the heavy and warm nomadic clothing that they—even after several centuries of life in India—still don when they have themselves portrayed on their coins and in state portraits. Their life in Bactria, however, had brought the Kushanas into close contact with the customs and way of life in eastern Iran. By adding the Punjab to their realm, they gained territory which had strong cultural and trade-related links with Hellenized Iran and the Western world.[8] A growing awareness of the world beyond Bactria and the Punjab, of trade and traders bringing goods, news, knowledge and means of exchange must have ushered in a climate of 'globalization'. Both Hellenic and

[6] The Kushanas ruled over culturally divergent regions which formally had been regionally divided among Indo-Greeks, Indo-Scythians (Shakas), Indo-Parthians and local Indian kings.

[7] Errington has analyzed coin evidence that helps to ascribe approximate dates to the various phases though which the Buddhist centres in the Northwest evolved. She provides chronologically arranged tables specifying coin finds, dated inscriptions and relic deposits for the Pakistani sites in Swat, the area of Taxila, Manikyala, and the Peshawar region; for the Afghani sites/regions of Ali Masjid, Daruntara, the Jalalabad plain, the Kabul region and the Hindu Kush sites of Bamiyan and Fondukistan (2000, Appendices 1 and 2). Cp. Behrendt 2004: 49, 235, 239.

[8] Rosenfield 1967: 129.

Iranian cultural elements stemming from the Bactrian heritage thus strongly permeated Kushana state affairs, as is evident from the titles they used and the legends and divine images on the coins issued in their name.[9]

The Kushana realm appears to have been a pluriform society with prosperous towns and villages connected with each other through a network of regional and international trade routes for commodities sold at markets both inside and across the realm's borders. The relative stability over a wide territory offered by the Kushana hegemony also created an ideal climate for the rise of Hindu, Buddhist and Jain religious centres, such as excavated e.g., in the southern capital of Mathura.

The multicultural Northwest was strewn particularly with Buddhist monasteries and stupas, which were lavishly supported by patrons from the thriving mercantile community. Archaeological research since the early 19th century has revealed the huge extent of the Buddhist architectural presence in the early centuries of our era, especially throughout these northerly regions now on Pakistani and Afghan soil. The number of sites is too large to enumerate, but includes famous early centres of Buddhist activity and patronage such as Butkara in the Swat valley, Taxila (the provincial centre Takshashila) in the Punjab, Charsada (ancient Pushkalavati) and Peshawar (ancient Purushapura), the monasteries of Takht-i-Bahi and Sahri Bahlol beyond Mardan, Shah-ji-ki-Dheri (the ancient Kanishkapura) in the valley of Peshawar and many other sites.[10] When, in the 1830s,

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[9] The Kushana gold and copper coins have Greek legends in Greek script next to legends in local languages and local scripts. The early kings use royal titles in Greek (*soter*, 'savior', basileus basileon, 'king of kings', itself a translation of the Persian imperial title 'shahanshah'); their successors employ the Bactrian-Iranian version of the same, 'shaonanoshao', the Indian equivalent 'maharaja rajatiraja (= adhiraja)', and the title 'devaputra', litt. 'son of the gods', in their inscriptions and on their coins. Rosenfield provides a list of inscription details with titles from Mathura (1967, App. 3). Göbl gives a full list of legends in the original script as read by him on coins (1984, pls. 14–15). Zoroastrian deities from the Iranian world constitute the pantheon present on gold and copper coins of the Kushanas, next to Hellenistic/Roman gods and a few Indian deities. In the reign of Kanishka (circa A.D. 120–140) Indian Buddhism reveals itself on the coins through images of Buddha and Maitreya. Indian religious iconography is mostly evident through the attributes and mount given to one of the Iranian deities in the Kushana pantheon, viz., Oesho. Rosenfield (1967, 72) provides a list of deities on these coins.

[10] Zwalf (1996, Chapter 2) offers a concise overview of 'the remains of Gandhara' with references.

Charles Masson explored the region of ancient Bactria, he noticed numerous brick and stucco 'topes' on Afghan territory as well, for instance at Bimaran and Hadda, near Jalalabad. Unfortunately most of these Buddhist monuments revealed various stages of decay or willful destruction.[11]

Photographic Documentation

Although Foucher refers to the joy of villagers watching the camera being set up and dismantled, his article does not include many photographs taken by himself.[12] Apart from a photograph by the firm Bourne & Shepherd and two well-known photos by the Lahore-based photographer John Burke, Foucher published nine engravings based on photos by Alexander E. Caddy, who personally dispatched these prints to him.[13] With Caddy, who was active for the Archaeological Survey of India (ASI) in Gandhara in the 1880s and 1890s, his colleagues Joseph David Beglar (active there between 1872 and 1880), James Craddock (in 1880), H. W. B. Garrick (in 1881–1882), and the Curator of Monuments, Henry Hardy Cole (in 1883–1884), we come to the focus of our contribution, the oldest corpus of photographic prints of Gandharan art, administered as serial numbers 959–1195 on the Indian Museum List published by Theodore Bloch in 1900. Only a few sets of this series remain, one of which is kept in the Kern Institute of Leiden University.[14] The small selection of representative photos described and put into context here derives from this album. Its labour-intensive restoration by the National Atelier of Photo Restoration in Rotterdam, the Netherlands, which was completed in 2001, in a way parallels the efforts by archaeologists and

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[11] Masson 1998 (reprint of 1841 edition) 55–118, and drawings.

[12] The remark on the opening page, suggesting that all illustrations derive from 'photographies de l'auteur', should first of all be read as 'photography collected by the author'. See Foucher 1899: 469.

[13] For Burke's photos, see Khan 2002: 179; photo entitled *Buner and Swat Jirgah,* 3 April 1891, numbered 115 (p. 177) and p. 130: photo entitled *Warriors against Hillside 1878–79*, numbered 84 (p. 131). For Caddy, see Foucher 1899: 501.

[14] Kern Institute acc. no. Album 2 (Gandhara album). It is recommended to carefully research the known sets (India Office of the British Library London, Warburg Institute photographic archive London, The British Museum London and the Alkazi collection's Fluke Album New York) in order to compare their degree of deterioration and to compile a digital master set.

conservators to reconstruct Afghan cultural history. In 1896–1897, Foucher could not trace any awareness, on the part of the Islamic Afghans, of the Buddhist-Hindu heritage. Without any tone of condemnation he simply states 'Ceux-ci sont des envahisseurs tardifs qu'aucune tradition ne retache au passé de la contrée.'[15] The set of 250 digitized prints showing Gandharan art objects collected within the 'Indo-Afghan' borderlands is an early treasure in the visual reconstruction of the Kushana cultural layer of the Afghan-Pakistani past.

The Gandhara album kept at the Kern Institute contains 49 *in situ* photos and 201 prints without a visual reference to their archaeological context. All 250 photos are albumen prints, for which an egg-white-coated, single-layered type of paper was used. The image source was a glass plate negative, which had to be 'wetted' on the spot with a liquid preparation of collodion and silverjodide in order to make it sensitive to light. This negative-positive procedure was standard photography practice between circa 1860 and 1880. From that time onwards, camera-ready 'dry-plate' negatives gradually replaced the laborious wet-plates and collodion or gelatine developing paper was favoured over albumen prints. The album was created by the Lahore firm *The Peoples Bookbinding Company*, apparently shortly after 1900, as it holds the Indian Museum list numbers according to Bloch's 1900 list.[16] It is most likely that Prof. J. Ph. Vogel, the founder of the Kern Institute in Leiden in 1925, ordered the album when he was the surveyor of the Northern Circle for the Archaeological Survey of India between 1901 and 1913.[17] By the 1990s the album itself had deteriorated, its pages were considered to be of a non-suitable type of paper, and the prints were affected by mould. It was then decided to restore the album. By indirectly moistening the back of the album pages, the photos were slowly 'soaked' off the album pages, flattened, scanned and transferred to a handmade, visually almost identical new album of PAT-certificated paper. The photos

[15] Translated: 'These [people] are conquerors and the last to be attached to the region's past by tradition.' (Foucher 1899: 474). The former Afghan villages to which Foucher refers in his account are among others: Dargai, Malakand, Chakdara, Top-Darra, Sumastupa, Katgalla, Bathkela, Palai, and Naogram.

[16] The album number given by the Peoples Bookbinding Company is A 221, and measured 28 × 34,8 cm. The present Gandhara album, Acc. No. 2, is 29 × 36,7 cm.

[17] Formerly named 'Punjab, Baluchistan and Ajmer Circle'.

were remounted with Japanese natural Kouzo fiber for bonding, to which only a minimum of wheat starch was applied to glue the print to the bonding. This technique guarantees flat album pages and meets the demand of reversibility within restoration practice.[18]

The album photos were taken between 1872 and 1896, a period in which photography for the greater part replaced the work by draughtsmen. According to L. Lawrence, 28 Indian staff photographers 'appeared on the ASI payroll' in the 1870s, a number which was to increase rapidly by the 1880s.[19] The photographic documenting of archaeological activities in the Gandhara region for the greater part coincided with the appointment of Alexander Cunningham, initially as an archaeological surveyor to the Government of India (1861) and later as the first Director-General of the ASI (1870–1885). The responsibility for the commissions and authorized permits to either explore or excavate Gandharan sites rested with him.

Breakthrough

However, the story of Gandharan archeology does not start from the 1870s, but can be traced back to the 1830s, when 'archaeological enquiries' unfortunately equalled the simple opening up of Buddhist topes. In 1832, Lieutenant Alexander Burnes of the Bombay Army probably was the first to refer to a stupa near Peshawar and another one along the way to the Khyber Pass. Besides, natives of Peshawar informed him that there were eight to ten topes towards the Kafir country in Swat and Buner, denoted by them as 'mounds of prior age' but not linked with Buddhism.[20] From that time onwards stupa-hunting became an adventurous and profitable activity for both military men and art thieves in search of valuable reliquaries with coins, precious stones and metals, and transportable art objects. We have some insight into what happened on the Afghan side through publications by J. G. Gerard and Charles Masson (1800–1853) and on the British side through Alexander Cunningham's discovery of Jamal

[18] The paper was supplied by the firm Rising, the type of paper is called Mirage, and the quality is labelled 'Plate'. The Japanese paper was supplied by Nao in Tokyo, the fiber name is Kouzo.
[19] Lawrence 2004: 293.
[20] Chakrabarti 1988: 38.

Garhi in 1848 and the anonymous 'Note on some sculptures found in the district of Peshawar', a document recovered by E. C. Bayley in 1852. It is difficult to picture what exactly took place and to what extent art theft and the spoliation of monuments disrupted the Kushana sites.[21] The fact that by the 1850s Gandharan sculpture was labelled as a recognizable art school, does illustrate that a convincing amount of material, mainly consisting of statues and stupa decorations, had been traced, transported or traded. Gandharan art was in focus and literally on the move by now, both in a positive and in a negative sense. The Asiatic Society at Calcutta exhibited the first stucco Bodhisattva heads in 1852, but the rumours about British officers and civilians being involved in the rapid denuding of Yusufzai's architectural panels and sculptures were persistent.[22]

The 1863–1864 investigations guided by the archaeological surveyor Cunningham gave Gandharan art a new impulse.[23] The focus was Peshawar and Palodheri (near Shah-dheri) and—outside the Gandhara region proper—Taxila and Manikyala. After a break in Cunningham's survey work between 1866 and 1870, he returned as the first Director-General of the ASI in 1870 and was given a staff of three assistants. They had not only been instructed to act according to Cunningham's detailed 'Memorandum of Instructions' on the objects and methods of archaeological investigation, but were also able to apply photography, the recently embraced new medium for documenting sites and finds according to their 'true nature'.[24] One of them, J. D. H. Beglar, contributed to the photo series in the Gandharan albums.[25] In the 1872–1873 season Cunningham focused

[21] See Errington 2004 for a short biographic review and a bibliography on James Lewis, alias Charles Masson. Between 1832 and 1838 he produced the first comprehensive archaeological records of eastern Afghanistan from surveys of excavations of Buddhist sites, and from a collection of coins and other finds primarily from the urban site of Begram and the Kabul bazaar. See also Chakrabarti 1988: 40. For Cunningham see Singh 2004: 94. The sculptures referred to in the anonymous, undated (but before 1852) note, were collected from Jamal Garhi by Colonel Lumsden of the Guide Corps and by Lieutenant Stokes of the Horse Artillery.

[22] On the exhibition, see Chakrabarti 1988: 39–40. On the art theft in Yusufzai, see e.g., Guha-Thakurta 2004: 56.

[23] For an overview of Cunningham's archaeological career, see Guha-Thakurta 2004: 27–42.

[24] Guha-Thakurta 2004: 41; Singh 2004: 85.

[25] He photographed in Ishpola in the 1872–1873 season, he documented the 'Jamal Garhi' finds apparently before June 1875, and photographed at Ali Masjid in the 1878–1879 season.

on the antiquities in Swat and Buner, and the promising area north-east of Peshawar, including the well-known sites of Shahbazgarhi, Takht-i-Bahi (previously excavated by Dr. Bellew and Sergeant Wilcher), Shahr-i-Bahlol, and Jamal Garhi. Here the eighth company of Sappers and Miners, under the command of Lieutenant Arthur Crompton, was active.[26] The successful archaeological season meant the absolute breakthrough of Gandharan art, as the full scope of the material had become evident, both in extent as well as in its art-historical qualities. In Europe, too, Gandharan art was well received, as it allowed for an exploration of 'unknown' Buddhist stories through the familiar venue of Greek and Roman classical forms.

In the meantime Lahore became something of a centre for Gandharan art. The naturalized Briton of Hungarian origin, Dr Gottlieb Wilhelm Leitner (1840–1899), the Principal of the Lahore Government College and the later Registrar of Punjab University College, regularly showed interested parties a collection of 172 pieces of Buddhist sculpture—supposedly excavated by him in 1870 at Takht-i-Bahi—and tentatively considered by him to constitute his 'own' collection.[27] By the end of 1872 he guided the French journalist and art critic Théodore Duret (1838–1927) and the Parisian banker and art collector Enrico Cernuschi (1821–1896) through the collections of the recently established Lahore Museum, operational since 1864. According to M. Maucuer 'They "discovered" the art of Gandhara and found there the answer to all their questions about the connections between Greek and Buddhist art.' In their opinion Buddhism formed the link between East and West, and the discovery of the Graeco-Buddhist art firmly supported the idea of a Western influence on Asia.[28]

Their reaction anticipated the growing appreciation of Gandharan art in the decennia to come. Dr. Leitner was also involved in the second European exhibition of Gandharan art. After a small and short-lived exhibition of Jamal Garhi finds in London's Crystal Palace

[26] Anon 1874a: 142.
[27] See for a description of his collection Anon 1874b: 158–160. The article is illustrated with a litho by W. Griggs, after an overview photograph of John Burke.
[28] Maucuer 2005: 25–26. Back in Paris, Cernuschi organized the largest exhibition ever on Asiatic art (August 1873) to show his recent acquisitions from Japan, China, Mongolia, India and Sri Lanka. See for the development of 'Cernuschi's museum' into the reconstructed Cernuschi museum *Orientations* of June 2005.

in 1866, the Vienna World Exhibition, held between 1 May and 31 October 1873, served as an international platform for the Punjab Government to present its antiquities, as archaeology was a focal point of the exhibition. Dr Leitner, however, misleadingly gave the impression that the 184 exhibited art pieces represented his collection, an idea systematically fostered by him, also in subsequent years.[29] In 1878 the third European exhibition of Gandharan art was held in Florence, on the occasion of the International Congress of Orientalists, where 115 pieces of Gandharan sculpture were presented, including stupa reliefs.

Monastic Context

Monastery complexes contained living quarters for the monks, a major stupa in a separate court surrounded by many votive stupas and small shrines in which stupas, relics or iconic images were worshipped.[30] The images, reliefs and architectural fragments depicted in the Leiden album stem from such a context.

Some of the early stupas in these monastic settings were round, brick-built structures on a high, vertical drum, as their central Indian counterparts, but more elongated vertically.[31] Other stupas were raised on a square base accessed by a stairway, seemingly to offer access for the rite of circumambulation.[32] The sketched reconstruction of the main stupa area at, for instance, Saidu in Swat reveals the impressive size and complexity of such a sacred site, as also captured in reliefs by Gandharan artists.[33]

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[29] For the problems with regard to Dr. Leitner's collections, his role in the Vienna contribution, his later museum in Woking, and the final transfer of 'his' collection to the Museum für Indische Kunst in Berlin, see Errington 1997. The 1873 exhibits were subsequently displayed at the Royal Albert Hall and later loaned to the India Museum in London.

[30] See Zwalf 1979. Recently Kurt Behrendt (2004) has presented a detailed overview of the architecture and sculptural programme of the Buddhist centres in the Northwest.

[31] Behrendt (2004: fig. 105) reproduces a drawing originally published by D. Faccenna in 1995. Klimburg-Salter illustrates in colour the relief depiction of a similar complex (1995: pl. 18).

[32] The diameter of the dome was nearly equal to the width of the square basis, and no room was left to provide safe access all around, as explained by Behrendt (2004).

[33] See for instance Kurita 1988: fig. 528.

In the early years the sculptural decoration of the stupas seems to have been limited to stair risers with foliage, musicians, perhaps donor figures, and—more rarely—narratives scenes illustrating stories of the Buddha's former lives.[34] Photographs recording such stair-risers from Jamal Garhi in the Peshawar Valley are included in the Gandhara albums.[35] Sometimes the dome of early stupas was decorated with stone pegs, known in Sanskrit as *nagadanta* or 'elephant's tusk', serving as garland holders.[36] Such pegs, still *in situ*, can be discerned on albumen print serial no. 1158, taken by Caddy possibly in the 1880s (Plate 31).[37] He photographed an early, low stupa erected at Chakpat, near Chakdara fort in the Swat Valley. Foucher suggested that the monument had escaped the fate of free supply of building blocks thanks to its remote location. The stupa, which was built from dry-masonry stone blocks, probably rested on a low plinth. A crack streching from the bottom up to halfway of the dome reveals the precarious state of the monument immediately after excavation. A low enclosing wall appears to define a circumambulatory path. The exact original height of the wall is difficult to ascertain. Although Foucher's drawing of the stupa in a reconstructed state suggests that it was a low wall of perhaps one meter high all around, the old photographs show that at least on two sides of the monument the remaining wall extended higher, even to halfway up the dome in one case.[38] A huge stone umbrella with a diameter of 3.5 meter, which was once raised above the stupa to mark its centre, rests against a pile of earth just outside the remains of the wall.[39] Even though no trace now remains of the Chakpat stupa, we have

[34] Behrendt 2004: 59.

[35] Behrendt provides a plan of the site (1994: fig. 61) drawn after earlier versions by Cunningham and Hargreaves.

[36] Barrett illustrates such 'false bracket' figures as excavated at Sirkap (figs. 21–22), Kunala (fig. 23) and the Dharmarajika stupa at Taxila (figs. 24–25). Cp. Lyons and Ingholt 1957: figs. 473–475 and Zwalf 1996: 281–282, nos. 429–431.

[37] Unfortunately we have not been able to trace a report on the excavation of the stupa. Foucher (1905–1951: 67, note 1) mentions that Caddy took photographs shortly after the stupa had been excavated and before the false bracket figures were removed. When Foucher visited the site in December 1896 the brackets were no longer there.

[38] Foucher suggested that these walls could be the remains of a later enlargement of the stupa (1899: 496; Foucher 1905–1951: 93–94).

[39] Foucher 1899: 496 and two photographs on p. 497; Foucher 1905–1951: 67–69, figs. 10–12.

at least the early photographs by Caddy and Foucher[40] to attribute it to its rightful place among the early Buddhist monuments of the Swat Valley.

However, exactly how early is 'early Buddhist' in this regard? The chronological framework for Gandhara rests largely on relative comparisons rather than absolute dates, although coin finds offer some time brackets, as do stratigraphies from excavation contexts.[41] Coin evidence, one of the prime means for dating these Buddhist foundations, is still extremely limited for the first century B.C., and only a few of the monasteries were founded before 100 B.C.[42] However, from the first century A.D. onwards, coinciding with the rule of the Kushana kings, many of the extant monastic sites in Taxila, the Peshawar basin and Swat were founded, as can be gathered from the recovery of coins, donated inscribed reliquaries and architectural remains. In Afghanistan, where relic deposits were recovered from stupas at Ahinposh, Guldara and Wardak, a number of monasteries appear to have been founded during the reign of Huvishka in the second century A.D., so Errington points out.[43]

Expansion came in the form not only of additional living space and votive stupas, but also by building relic shrines decorated with narrative reliefs that recount major episodes from the Buddha's life.[44] The focus on the worship of relics, which were mostly deposited in small stupas, resulted in the donation of numerous such monuments—leaving us with a *plaethora* of fragments of curved panels with narrative reliefs, cupola fragments and false gables that were originally affixed to the drum of a stupa.

Such remains were for instance recovered at the site of Loriyan Tangai (which is situated along the Mora Pass leading into Swat) and subsequently brought to the newly opened Indian Museum in Calcutta (Kolkata). The Gandhara albums not only illustrate the remains of the main stupa's low, stepped basement, but also document narrative panels, Buddha and Bodhisattva images and architectural fragments recovered at the site, as for instance through

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[40] Foucher 1899: 497.

[41] Behrendt reconstructed a four-phase development of the northwestern monastic architecture and its sculptural programme through a comparative analysis of various major sites with long building histories.

[42] Errington 2000: 194; Behrendt 2004: 235–237.

[43] Errington 2000: 16.

[44] Behrendt 2004: 77–78, 227–238.

photograph serial no. 1168, taken by Caddy (Plate 32). Among this architectural omnium-gatherum we notice small stupa domes, pieces of bases, mouldings, umbrellas, and a single-piece false gable.[45]

The sculptural motif of the false gable ultimately derives from the shape of the indigenous Indian barrel-vaulted roof such as it was applied in wooden and rock-cut halls. The typically wide horseshoe-shaped facade of these halls, either simple or with semi-curved side aisles, inspired the Indian artists to create niches with similar shapes and decorations, all executed in miniature form. This *caitya* arch would remain one of the most successful forms in the architectural language of India, redesigned time and again, and changing only very slowly in response to gradual changes in architectural practice. The Gandharan architect applied the *caitya* niche shape to create the false gables that decorate the base, drum and dome of the stupas.[46] Such gables then offered plenty of space to accommodate scenes from the life of the Buddha or paradisical scenes revealing a glimpse of a supra-mundane world centring on a transcendental Buddha surrounded by bodhisattvas.

One such gable, reported to have come from the monastery of Takht-i-Bahi, was photographed by James Craddock in 1880. The relief is positioned in a crate labelled C3 at the top right of a composite of narrative reliefs in photograph serial no. 1000 in the album. The gable is now part of the Gandhara collection in the Indian Museum (G59/A23265).[47] The central panel shows the Buddha, accompanied by the *yaksha* Vajrapani, who meets the mythic *naga* King Kalika and his wife Suvarnaprabhasa. They rise from a man-made tank where they live, their hands raised to the chest in respect for the Buddha (Plate 33). According to the texts Kalika

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[45] Behrendt managed to identify several architectural fragments captured on this group photograph in front of a white tent, apparently at Loriyan Tangai, among the contents of the Indian Museum in Kolkata (2004, Appendix D1).

[46] The deliberate application, on the base of the stupa known as the 'Shrine of the Double-headed Eagle' at Sirkap, of three different kinds of blind facades (including the birds perching on the roofs as frequently seen on *caityagrha*-type buildings in early Buddhist art) indicates that the artisans were well aware of the architectonic roots of the *caitya* niche motif. Behrendt explains the position of the false gable in the architectural design of Gandharan stupas and notes that it was consistently attached immediately above the step on the face of the vertical-walled drum. The top crowning lobe extended above the band with the *vedika* pattern (2004: 132–133).

[47] We could not trace gable no. G59 among the Jamal Garhi finds in the museum's list.

eloquently praised the Buddha-to-be who was passing by, and predicted his Enlightenment.[48] Vajrapani peeks over the Buddha's right shoulder, ready to jump into action if need be. Other elements decorating the Takht-i-Bahi pediment are a nimbate meditating figure (probably a Buddha) holding an alms bowl, on the left, matched by a meditating Buddha on the opposite side. We also notice a wreath-shaped framing, a leafy border, a rosette, a bead-and-reel moulding, dental patterns, fish-tailed *ichthysauri* nicely fitted into the corners of the crescent-shaped niches, and male devotees worshipping either the alms bowl of the Buddha depicted in the top register,[49] or a seated, meditating Buddha in the middle niche. These motifs belong to a fairly standardized repertoire of figurative and decorative elements for Gandharan *caitya* pediments, although the artists found surprisingly many ways to apply these in varying patterns, while taking care to lead the eye to the main episode in the largest niche below.

Crates and Labels

Although Bloch's list of Gandharan negatives provides many useful details, it is less accurate than hoped for. Of some twenty prints the site name is unknown, 29 carry the general denomination 'Swat Valley' and the sculptures from Takht-i-Bahi, Shahr-i-Bahlol and Karkai are all entered under Jamal Garhi 'as no separate arrange-

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[48] An encounter with a very similar iconography is that which shows how the Buddha, much later in his life, subdues the *nagaraja* Apalala, who is shown rising from a pond, likewise in the company of his wife and occasionally additional *nagas*. Vajrapani occurs twice—once while striking the rocks with his *vajra* in order to scare Apalala, and a second time next to the Buddha. Zwalf (1996: 171–172) reiterates the iconographic differences between the depictions of the two events and provides exact references to the repeated discussions on these *naga* episodes in secondary literature. In his study of serpent lore, J. Ph. Vogel explained how the Apalala legend, after having been relocated to the Swat Valley, became a favourite theme in the art of Gandhara (1972: 122). He found the best depictions of Apalala's submission in the main panel of pediments such as the one in photograph no. 1000. The Digibeeld digital database of Leiden University contains images of such pediments from Loriyan Tangai (Indian Museum, Kolkata, cp. Foucher 1905–1951: fig. 271); from Bringan (Peshawar Museum, no. 336); and from Gandhara (Peshawar Museum, no. 28).

[49] Shoshin Kuwayama (1987) discussed the importance of the Buddha's alms bowl in Gandharan art and religious practice.

ment was possible'.[50] Site attribution or context retracing has thus become a matter of time-consuming research in which archaeological reports and visual sources should be carefully studied. The imprecise attribution of the 'Jamal Garhi' sculptures is already evident in Cunningham's *List of sculptures from Yusufzai* (1875), in which he indicates that 'The great mass, or about nine-tenths of the whole, was found at Jamâlgarhi'; the remaining 10 percent comes from Sahri-Bahlol, Kharkai and Takht-i-Bahi, but the list does not provide site-specific data for each individual entry.[51] Therefore there is a good chance that the photographs from 'Jamal Garhi', 47 according to Bloch's list, actually document a mixture of finds from all the places mentioned. This is even more likely considering that the first arrangement underlying the composition of the photographs was grouping by classes of objects, subsequently refined by aesthetic matching. The class division was set up by Cunningham to sort the material, to facilitate its transport and, in the long run, to allow for a comparative study.[52]

Thanks to PhD research by Elisabeth Errington (1987) we are now able to eliminate some provenance questions. She examined the 'Jamal Garhi' sculptures in Kolkata's Indian Museum and in London's British Museum and Victoria and Albert Museum for the presence of an incised letter J—as recommended by Cunningham—to definitely attribute these to Jamal Garhi.[53] Errington also matched her data with Cunningham's list of classes of objects[54] and the photographs of crates labelled 'Jamal Garhi' that were taken by Beglar, Craddock and an 'unknown photographer'. The crates, apparently designed for safe transportation of the finds, allowed systematic documenting by

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[50] Bloch 1900: 41. See also Cunningham 1875: 197, where he states that nine–tenths of the finds are from Jamal Garhi.

[51] The list was published in 1875 as Appendix B in *Archaeological Survey of India: report for the year 1872–1873*.

[52] For the class arrangement see the 1875 list, pp. 197–202. R-numbers refer to Religious scenes, S-numbers to Statues, C to reliefs of Chapels etc.

[53] Garrick (1885: 92) quotes a 'Memorandum for Peshâwar explorations' by Cunningham in which he gives the specific instruction that

> All the sculptures that are worth preserving should be marked at once by mason's chisel with an initial letter of the place where they were found. Thus P might be cut on the side, or top, or back of all sculptures found at Peukelaotis. At my suggestion the Jumâlgarhi sculptures were all marked with the letter J by Lieutenant Crompton; and these are now almost the only Indo-Scythian sculptures of which the findspot is absolutely known.

The memorandum does not carry a date.

[54] Cunningham 1875: 197–202.

means of photographs, with attached labels referring to Cunningham's classified list. It is likely that the 'Jamal Garhi' crate contained photographs which were produced in Lahore, where photographic materials (plates and chemicals) were available and the high costs and disadvantages of 'mobile' photography could be avoided. Lahore, as the seat of the Punjab government with its recently established museum, probably served as a depot and first centre of distribution.[55]

Judging from the impressive amount of Gandharan sculpture in museums and private collections all over the world, a steady stream of art came down the Peshawar Valley. Most of the excavated Gandharan sculptures can now be traced in the Peshawar Museum (4,247 pieces) and the Lahore Museum (over 1,900 pieces). Many sculptures were ultimately transported to the Indian Museum in Calcutta (Kolkata) which, with its 1,600 sculptures, houses the largest collection of Gandharan sculptures outside Gandhara proper. Some 713 sculptures of the museum's holdings, however, are unprovenanced.[56] In Europe the largest collecton, amounting to 680 items, rests in the British Museum, partly via the former India Museum.

The crate labelled R37 (Plate 33), in a photograph taken by Craddock, contains a relief from the site of Jamal Garhi brought to the Indian Museum (G18/A23272, 25.5 × 51 × 5.5 cm). Scenes of the Buddha-to-be preparing the seat on which he intends to reach Enlightenment are quite familiar in the Gandharan narrative corpus and exist in many varieties. A few details of the composition, however, have so far escaped a definite explanation. Who are the richly dressed couple on the left side of the seat? Some scholars have suggested that they are Mara and one of his daughters, about to challenge the Buddha's spiritual powers. The presence of the Earth Goddess, on the Jamal Garhi panel seen rising from a frame of acanthus leaves in front of the seat, indeed points ahead to the same episode; likewise—so it seems—the warrior armed with a sword, who stands next to the Buddha, also does so. However, in the preserved reliefs the pair opposite the Buddha really look like lovers rather than relatives—their intimacy expressed by leaning towards each other, hugging or embracing with one arm.[57] The entire scene man-

[55] The careful way in which the sculptures were encased in wooden crates of matching sizes and shapes (e.g. visible on Bloch's list no. 1057) indicates that the crates were used not only for photography, but also for long-distance transportation.

[56] Sengupta and Das 1991, Introduction.

[57] Compare the relief kept in the Lahore Museum illustrated by Foucher (1905–1951:

ages to capture the relaxed atmosphere of a chance encounter between representatives of two different walks in life, rather than the violent action characterizing Mara's confrontation with Shakyamuni seated in deep meditation.[58]

The crate labelled R35 in photograph serial no. 1000 (Plate 33) contains another relief possibly from Jamal Garhi and now in the Indian Museum (G37/A23463, 25 × 39.5 × 7.1 cm). It belongs to a different category of Gandharan art, in which the artists use symbols rather than human representation to suggest the presence of the Buddha. The nature of the symbol may differ—it may be a sun disk[59] or, as in this case, a three-pronged, pre-Buddhist *nandipada* or taurine symbol. This auspicious mark has been transformed in such a way that it both incorporates the wheel with flanking deer symbolizing the first sermon of the Buddha at Sarnath and carries three small wheels at the top as well. An iconographic context for this symbol is offered by those Gandharan reliefs in which the seated Buddha presides over a wheel supported by a *nandipada* stand, or those where he actually turns the *cakra* positioned in front of him.[60] The presence of two flanking deer and attentive monks, gathered around on either side, indicates that not any lecture, but actually the First Sermon at Sarnath is meant. In those Gandharan reliefs where the symbol takes the place of the Buddha himself, the *nandipada* supports not one, but three *cakras*.[61] There are even images in which the Buddha himself is shown turning three wheels. Zwalf[62] recapitulates the prolonged discussion on the exact meaning of the three wheels—a Gandharan innovation—in secondary literature. The commonly held view is that the wheels refer to the trinity of Buddha, his teachings (*dharma*) and the community of monks and nuns (*samgha*), particularly in those cases where the three wheels occur in a non-narrative context, and rather seem to represent an actual cult object.[63]

fig. 199); or a relief in the BM (OA 1902.10–2.14) from Swat or Buner, Zwalf 1996, no. 184. In the BM relief a male figure standing next to the couple rests a sword against his left shoulder. Kurita (1988: 111–112) illustrates a few familiar and less known examples of the episode.

[58] Zwalf (1996: 172–173) provides a historiography of the discussions on similar depictions with literary references to primary and secondary sources.

[59] E.g., BM no. 197.

[60] See Foucher 1905–1951: fig. 220; Lyons and Ingholt 1957: figs. 75–77.

[61] Cp. Lyons and Ingholt 1957: fig. 79.

[62] Zwalf 1996: 184–185.

[63] Compare, for instance, Kurita 1988: fig. P3-III and many others in the section

Mireille Benisti (1977), however, argued that the three wheels allude to the three turnings of the wheel at the First Sermon, and representations such as that in the Jamal Garhi relief illustrated here seem to corroborate her view. Devout monks kneel on either side, their hands raised in *anjalimudra*. Devotees stand behind—two of them showering flowers. Of the Corinthian pillars framing the scene and supporting the acanthus-decorated beam overhead, only one remains.

Why did the artist in this case add the tri-lobed *caitya* arch and chose to have it encompass the *cakra-nandipada* but not the attending figures? Was it to visually 'isolate' the symbolic from the 'secondary' figurative elements, as if to emphasize the deeper message of the three weels?[64] One other option cannot be ruled out altogether, viz., that the artist shows us a *cakra-nandipada* raised in a shrine under worship in a monastic setting. Images of such shrines housing a throne or a *stupa* are known from early Buddhist sites such as Bodh Gaya, Bharhut and Sanchi. However, the kneeling gesture of the monks so closely resembles that of auditors huddling close in order to catch every word of the Master, that a symbolic portrayal of the First Sermon was most likely intended here.

Craddock may knowingly or unknowingly have photographed finds from various sites in one shot. This is illustrated by photograph serial no. 973 (Plate 34) in the Leiden album, which was taken back in 1880. It shows a fine array of iconic standing and seated Buddha images and heads. These have been published on various occasions, starting from the time of Alexander Cunningham in the 1870s. The 90 cm high standing Buddha on the left, in the crate labelled S1, might be from Jamal Garhi, but this could not be fully ascertained by Errington. The image was first transferred to the India Museum, and thereafter to the British Museum.[65] Its counterpart on the right, in the crate labelled S2, was among the considerable share of finds that came to the Indian Museum in Kolkata around the same time (G125a/A23214, 87 × 31.5 × 13.2 cm). Although the museum's recent list attributes it to Jamal Garhi or Kharkai,[66] this provenance is not supported by Errington. The letter 'J' engraved on the back

on 'The First Sermon' (pp. 149–156), both from museum holdings and private collections.

[64] Lyons and Ingholt's fig. 79 has no *caitya* frame. The tri-lobed *caitya* form is also seen in palanquins. See Kurita 1988: fig 59.

[65] BM 1880–73, Zwalf cat. no. 3.

[66] Sengupta and Das 1991: 58.

of the fragmentary Buddha head with wavy hair labelled H15, however, unequivocally proves a Jamal Garhi provenance for this Indian Museum piece (G123);[67] the Buddha head labelled H16, even though mentioned among the Jamal Garhi corpus in Kolkata (G127, 15.7 cm height), does not carry the letter J from Cunningham's time and thus may have come from another site. The carved hair with curly waves, the delicate face and decorated halo of the Buddha in the crate labelled '4' (apparently in reference to Cunningham's list no. H4) contrasts sharply with the damage created by the crude severing of the hands. The throne supporting Gautama is decorated with a pattern of eglantine foliation. The image is now part of the 'Jamal Garhi' corpus in the Indian Museum (G148/A23518, 43.2 × 27.1 × 4.2 cm), but Errington could not corroborate this attribution. The same holds true for the panel labelled R50, in the top centre of the photograph. It once adorned the base of a stupa and shows a seated, moustached Buddha with a devotee. The image has no 'J' to support its inclusion among the Jamal Garhi sculptures in the Kolkata inventory list (G63/A23379, 24.8 × 22.4 × 6.5 cm). Errington has suggested that it might come from Takht-i-Bahi instead.[68]

Luckily Cunningham's system of engraving site initials on finds provides an irrevocable Jamal Garhi provenance for an impressive triad in the crate labelled R25. It consists of a seated preaching Buddha (hands together in *dharmacakrapravartanamudra*) accompanied by two Bodhisattvas, each supported by a lotus. The Bodhisattva on the right side of the Buddha still holds a flask; his counterpart on the opposite side once held a garland in the left hand. The central Buddha is worshipped by a male and a female lay adorant (the donors?) kneeling beside a lamp on a stand. Cunningham himself donated the panel to the British Museum[69] and Zwalf offers an elaborate description and analysis of this frequently-published piece.[70] The panel measures 40.6 × 27.3 × 9.7 cm. The range of interpretations offered for the identity of this triad almost equals the number

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[67] We could not trace Buddha head no. G123 among the Jamal Garhi finds in the museum's list.

[68] As we could gather from the Appendix B to her PhD thesis (1987). Unfortunately we do not know on which basis she could identify Takht-i-Bahi as the probable location.

[69] BM 1887.7–17.48.

[70] Zwalf 1996: catalogue no. 111.

of times it was published, so we refer to Zwalf's catalogue for a discussion of that aspect of the panel. In her study of 'the art of Northwest India', Johanna van Lohuizen-de Leeuw already pointed out that snail-shell curls, an uncovered right shoulder and uncovered feet are three features which are typical of the Buddha image from Mathura. She suggested that these three peculiarities, when combined with the *dharmacakrapravartanamudra*, 'only came to Northwest India towards the Gupta time, that is to say at the beginning of the fourth century'[71].[72]

Not every Buddha or Bodhisattva icon provides such clear iconographic and stylistic clues to its approximate date of manufacture as the Jamal Garhi triad does. With the removal of iconic images from their architectural contexts, it has been very difficult to ascertain the role of such schist and stucco images in the monasteries and stupa courts of Gandhara, or to ascribe a date to their manufacture. Behrendt's analysis of the development of monastic sites seems to suggest that it was not before the early third century A.D. that monasteries shifted from building stupa shrines to building image shrines.[73] Prosperity and patronage for the production of large quantities of sculpture characterize this phase. However, this does not mean that iconic images of the Buddha were not being worshipped in the Greater Gandhara region before special shrines were erected for such icons. In fact, Buddha images have been found propped up against stupa bases and other buildings, though this may not always have been their original position.[74]

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[71] Van Lohuizen-de Leeuw 1949: 126.

[72] The Buddha in the much-debated triad from the Claude de Marteau collection in Brussels (Fussman 1987: fig. 3; Kurita 1988, P3–VIII), with an inscription dated 'in the year 5', does not have snail-shell curls. Nevertheless, the distinct iconographic similarities between the Brussels triad and the Jamal Garhi triad in Craddock's photograph suggest that they were not far removed in time. The 'year 5' of the inscription on the Brussels pedestal should then be interpreted as signifying (100 +) 5, in accordance with the 'dropped hundreds' theory proposed by van Lohuizen-de Leeuw. This would date its manufacture to the first half of the third century A.D. In a section on 'The miracle of Śravasti', Kurita (1988: 190–203) illustrates quite a number of such panels, often with very elaborate multiple-figure iconographies suggesting a later date as well. M. C. Joshi (1991: 73) suggests that 'the real *dharma-cakra* mudra without the presence of the actual wheel was possibly innovated by Gandharan sculptors some time about the third century A.D.'

[73] Zwalf (1996: fig. 506) illustrates an image in high relief from Takht-i-Bahi of a double-domed image shrine or chapel with a preaching Bodhisattva.

[74] Zwalf 1996: 41.

There is an ongoing debate on the approximate period in which the anthropomorphic Buddha image first appeared in Indian art, and dates going back to the second century B.C. have been proposed for early reliefs from the Mathura school. One of the few 'anchor stones' is Buddha's portrayal on gold coins of Kanishka, which probably date back to about the middle of the second century A.D. at the latest. It suggests that in the Northwest the Buddha was portrayed in an iconic fashion around the turn of the second century A.D. at least, but it does not prove that such a type of iconic-size Buddha image had already been around for a considerable time.[75]

In 1885 photographs from the Gandhara albums were first reproduced in book form by one of the photographers, Major Henry Hardy Cole. The booklet 'Preservation of national monuments, India: Graeco-Buddhist sculptures from Yusufzai' published in Paris (1884–1885) contains thirty engravings and drawings based on Cole's photographs with descriptions.[76] In 1897 Cunningham's successor, James Burgess (1832–1916), decided to publish a selection of over 40 photographs in Part one of his 'The ancient monuments, temples and sculptures of India', because he thought that it would be 'well to take advantage of the photographs here, before the negatives are injured by the Calcutta climate or otherwise'.[77] Bloch's list documents photography for those Gandharan sites that were in focus between 1872 and 1896.[78]

Considering that the album spans 25 years of survey photography in the former Gandhara region, the total amount of approximately 250 photos is disappointingly low. Apparently at that time photography was not yet the medium for documenting quickly and at low cost. This makes the five remaining albums precious in every respect.

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[75] As was suggested by G. Fussman (1987).

[76] In his introduction Cole remarks that all finds were photographed and presented by Lieutenant-Governor Sir C. Aitchison to museums in Lahore, Calcutta, Madras, Bombay and Rangoon.

[77] Burgess 1897: I, 5–14.

[78] Ishpola, Ali Masjid, Jamal Garhi, Shahbazgarhi (Beglar); Chakdara, Chini Tangai, Digah, Guniar, Swat Valley, Lorian Tangai (Caddy); Jamal Garhi, Shahbazgarhi (Craddock); Takht-i-Bahi (Norris); Charsadda, Karamar, Koi Tangi, Mala Tangi, Mian Khan, Mian Jan, Muhammad Nari, Nuttu, Sanghao, and an unknown site (Cole); Kashmir Smast (unknown photographer).

References

Anon. 1874a 'The Buddhist ruins of Jamâl Garhi' (abridged from a report on their exploration during the months March and April 1873, by the eighth Company Sappers and Miners, under the command of Lieutenant Arthur Crompton, R. E.), *The Indian Antiquary* 3, 142–144.

—— 1874b Dr. Leitner's Buddhistic sculptures, *The Indian Antiquary* 3,158–160.

Behrendt, K. A. 2004 *The Buddhist Architecture of Gandhara*, Leiden [etc.] (Handbook of Oriental Studies / Handbuch der Orientalistik 2/17).

Benisti, M. 1977 'À propos du triratna', *Bulletin de l'École Française d'Extrême-Orient* 51, 43–81.

Bloch, T. 1900 *A List of the Photographic Negatives of Indian Antiquities in the Collection of the Indian Museum. With which is incorporated the list of similar negatives in the possession of the India Office*, Calcutta.

Burgess, J. [1897] *The Ancient Monuments, Temples and Sculptures of India. Illustrated in a series of reproductions and photographs in the India Office, Calcutta Museum and other collections*, London.

Chakrabarti, D. K. 1988 *A History of Indian Archaeology. From the beginning to 1947,* New Delhi.

Cole, H. H. 1884–1885 *Preservation of National Monuments, India. Graeco-Buddhist sculptures from Yusufzai*, Paris.

Cunningham, A. 1875 *Report for the Year 1872–1873*, in particular: Appendix B. List of sculptures from Yusufzai, 197–202, Calcutta (Archaeological Survey of India Report 5).

Errington, E. 1987 *The Western Discovery of the Art of Gandhara and the Finds of Jamalgarhi*, PhD thesis, London University.

—— 1990 'Towards clearer attributions of site provenance for some 19th century collections of Gandhara sculpture', in *South Asian Archaeology 1987*, M. Taddei & P. Callieri (eds.) 765–781, Rome (Serie Orientale Roma 66/2).

—— 1991 'Addenda to Ingholt's Gandharan art in Pakistan', *Pakistan Archaeology* 26, 48–70.

—— 1997 'The 1878 Florence exhibition of Gandharan sculpture', in *Angelo de Gubernatis. Europe e Oriente nell' Italia umbertina*, M. Taddei, 139–214, Rome, Collane "Matteo Ripa" XIII.

—— 2000 'Numismatic evidence for dating the Buddhist remains of Gandhara', in *Papers in Honour of Francine Tissot*, E. Errington & O. Bopearachchi (eds.) 191–216, Kamakura (Silk Road Art and Archaeology 6).

—— 2004 'Masson, Charles', *Encyclopaedia Iranica*, New York (available on www.iranica.com).

Errington, E. & J. Cribb with M. Claringbull 1992 *The Crossroads of Asia. Transformation in Image and Symbol in the Art of Ancient Afghanistan and Pakistan*, Cambridge.

Foucher, A. 1899 'Sur la frontière indo-afghane. Extraits du journal de route d'un archéologue', *Le Tour du Monde. Journal des Voyages et des Voyageurs*, n.s. 5, 469–504, 541–564.

—— 1900 'Op de Indo-Afghaanse grens. Uit het reisjournaal van een archeoloog', *De Aarde en haar Volken*, 361–384.

—— 1905–1951 *L'art gréco-bouddhique du Gandhâra. Étude sur les origines de l'influence classique dans l'art bouddhique de l'Inde et de l'Extrême-orient*, 2 vols. Paris (Publications de l'École Française d'Extrême-Orient 5–6).

Fussman, G. 1987 'Numismatic and epigraphic evidence for the chronology of early Gandharan art', in *Investigating Indian Art. Proceedings of a symposium on the development of early Buddhist and Hindu iconography held at the Museum of Indian Art Berlin in May 1986*, M. Yaldiz & W. Lobo (eds.) Berlin, 67–88.

Garrick, H. B. W. 1885 *Report of a Tour through Behar, Central India, Peshawar, and Yusufzai 1881–82*, Calcutta (Archaeological Survey of India Report 19).

Göbl, R. 1984 *System und Chronologie der Münzprägung des Kuśanreiche*, Wien (Veröffentlichungen der Numismatischen Kommission).

Guha-Thakurta, T. 2004 *Monuments, Objects, Histories. Institutions of art in colonial and postcolonial India*, Delhi.

Joshi, M. C. 1991 'Dharma-cakra pravartana mudra in Gandhara art', *Pakistan Archaeology* 26, 71–75.

Klimburg-Salter, D. E. 1995 *Buddha in Indien. Die frühindische Skulptur von König Aśoka bis zur Guptazeit*, Wien.

Kurita, I. 1988 *Gandharan Art*, 1, *The Buddha's life story*, Tokyo (Ancient Buddhist Art Series).

Kuwayama, S. 1987 'The Buddha's bowl in Gandhara and relevant problems', in *South Asian Archaeology 1987*, M. Taddei & P. Callieri (eds.) 945–978, Rome (Serie Orientale Roma 66/2).

Lawrence, L. 2004 'The other half of Indian art history. A study of photographic representations in orientalist and nationalist texts', *Visual Resources* 20, 4, 287–314.

Lohuizen-de Leeuw, J. E. van 1949 *The "Scythian" Period. An approach to the history, art, epigraphy and palaeography of North India from the first century B.C. to the third century A.D.* PhD thesis, Rijksuniversiteit Utrecht, Leiden.

Masson, C. 1998 'Memoir on the topes and sepulchral monuments of Afghanistan', in *Ariana Antiqua. A descriptive account of the antiquities and coins of Afghanistan with a memoir on the buildings called topes, by C. Masson, esq.*, H. H. Wilson, 55–118, reprint (London, 1841) New Delhi [etc.].

Maucuer, M. 2005 'From Cernuschi's museum to the Cernuschi Museum', *Orientations* 36, 6, 22–29.

Rosenfield, J. M. 1967 *The Dynastic Arts of the Kushans*, Berkeley [etc.].

Sengupta, A. & D. Das 1991 *Gandhara Holdings in the Indian Museum. A handlist*, Calcutta.

Singh, U. 2004 *The Discovery of Ancient India. Early archaeologists and the beginnings of archaeology*, New Delhi.

Vogel, J. Ph. 1972 *Indian Serpent-lore or the Nagas in Hindu Legend and Art*, reprint (London, 1926) Varanasi [etc.].

Zwalf, W. 1979 *The Shrines of Gandhara*, London.

—— 1996 *A Catalogue of the Gandhara Sculpture in the British Museum*, 2 vols., London.

CHAPTER EIGHT

THE MURAL PAINTINGS OF THE BUDDHAS OF BAMIYAN: DESCRIPTION AND CONSERVATION OPERATIONS

Kosaku Maeda

Bamiyan means 'the place of shining light'. There is great beauty in the varied colours of its rugged lines of rolling hills. At twilight, the subtle juxtaposition of glittering stars with the pale light of the setting sun suffuses Bamiyan with an air of mystery. A faint breeze seems to erase the boundary between this world and the world beyond. Bamiyan exists as a visible relic of the complex historical fusion arising out of the interaction of humans and the wonders of nature in this valley.

With its unusual correspondence between the gradual but intense processes of natural change and the more rapid but equally dramatic changes wrought by mankind, Bamiyan will continue to profoundly move the spirits of those who visit it.

Description of the Bamiyan Valley

Rising to the north are the immense mountains of the Hindu Kush, easily extending beyond a height of 4,000 metres; to the south lies the rugged Koh-i-Baba Range, whose highest peak is Shah Foladi, at 5,143 metres. The Bamiyan Valley is situated on the narrow foothills between the two great ranges running in parallel. The central valley of Bamiyan is located at 34º51" N, 67º48" E, at an elevation of 2,500 meters, and is irrigated by two rivers flowing down from sources in the Koh-i-Baba: the Kakrak River to the east and the Foladi River to the west. A number of villages have been established along the courses of these two rivers, the closest to the central valley being Kakrak on the lower reaches of the Kakrak River and Darra-i Tajik on the lower reaches of the Foladi. The principal archaeological sites are located in the long east-west central valley of Bamiyan and in the valleys of the Kakrak and Foladi Rivers.

A Brief Look at the History of Bamiyan

At Bamiyan we encounter the Buddhist cave temples from several different periods. The nucleus of Bamiyan's cultural legacy was formed by the two colossal Buddha images carved at the eastern and western ends of a high cliff facing the central valley (Plate 12), and perhaps a thousand caves also cut into the cliff face and decorated with a rich variety of murals. The Buddhist religious art of Bamiyan, which enjoyed a Renaissance here in central Afghanistan after the collapse of the earlier Gandharan culture, was a unique synthesis which was appropriate to an area that has been called a Cultural Crossroads.

However, the culture of Bamiyan did not blossom overnight. That it was a long, slow process is testified by the stone chambers lining the wadis and the alluvial fans created here and it is there that the wadis enter the main valley—now forgotten and desolate stretches of sand, but once the winter grazing grounds for the semi-nomadic pastoral people who paved the way for Bamiyan culture. These remains of the lives of the herdsmen who contributed to the development of Bamiyan culture, as well as the Muslim burial-grounds, deserve comprehensive protection as cultural sites. In addition, the legendary Islamic sites of Khoja Ghar, Yakhsuz, and Mir Hashem, with their sacred groves of chinar (plane) trees, continue to exist in the central valley, and also deserve protection as evidence of the continuity of Bamiyan culture through the Islamic period.

Bamiyan formed part of the Persian/Achaemenid Empire under Darius and was located along the southern borders of the twelfth satrapy as listed in the Historiae of Herodotus. A satrapy is the administrative government to collect the yearly tribute. Although Achaemenid records[1] mention the names of such ancient cities of Afghanistan as Haraiva (Herat), Baxtri (Bactria), Harauvati (Kandahar), and Thatagu (to the north or east of Kandahar), the name 'Bamiyan' is not mentioned. Nor is there any firm basis for the theory that Alexander turned south to enter Bactria via Bamiyan in 329 B.C., rather than going over the Khawak Pass to the north. Before appearing on the stage of history as a place-name, this remote area would have to wait until the arrival of Buddhism from India.

[1] The inscriptions of Behistun.

Around 305 B.C., Seleucus Nicator, who had inherited the eastern regions of the empire of Alexander the Great, ceded the Hindu Kush region to the rising Maurya dynasty of Chandragupta. It was about fifty years later, in 261 B.C., that Chandragupta's grandson Ashoka dispatched the eminent monk Maharakkita as a Buddhist missionary to the area, just before Graeco-Bactria declared its independence in the northern Hindu Kush. The Rock Edict of King Ashoka discovered at Kandahar in 1957 by DAFA is testimony to this.

When Buddhism was first practized in Bamiyan is unclear, but it quietly began to firmly find its roots in the north and south of the Hindu Kush during the Kushan dynasty, and we know that from the second to the fourth centuries A.D., many Buddhist monuments (stupas, temples and monastries) were built in these areas. In the northern Hindu Kush, the Buddhist archaeological sites closest to Bamiyan are the cave temples of Surkh Kotal (3rd to 4th centuries) and Haibak (4th to 5th centuries). To the south of the Hindu Kush, monastries already flourished at Kapisa-Begram, Shotorak, and Paitava (2nd to 5th centuries) and Buddhist temples were built at Tepe Maranjan (4th to 5th centuries) in Kabul.

Given this context, it seems reasonable to assume that the creation of the Buddha images and the temples (*samgharama*) at Bamiyan had at least begun by the end of the fourth century. It is at this time that the name Bamiyan first begins to appear in written records, for example the Chinese Wei Shu, as Fan Yang, and in the Pahlavi Bundahishn as Bamikan.

The first to record really accurate information regarding Bamiyan was the Chinese monk Xuan Zang (Hsuan-tsang) who travelled up the Balkh River and crossed the Great Snowy Mountain (the Hindu Kush), reaching Bamiyan around 630. He spent about fifteen days in Bamiyan, where he was welcomed by the King of Bamiyan, whose palace he visited and where he paid homage to Buddha. He wrote of what he saw and heard at that time in the incomparable documents of his travels, *Buddhist Records of the Western World*.[2]

According to Xuan Zang, the Kingdom of Bamiyan was '. . . two thousand li from east to west, and . . . three hundred li north to south', which means a long, narrow land following the topography

[2] Translated by S. Beal, 1884 *Si-Yu-Ki. Buddhist Records of the Western World*, London.

of the river valley. The capital was '. . . six or seven li in length . . .', and at its centre stood the palace. The site of this palace has yet to be confirmed. In the foothills to the northeast of the palace was a standing image of the Buddha, some 140 to 150 chi in height, which would correspond to the 55-metre West Buddha that survived until recently. To the east of this colossal image stood '. . . a samgharama built by a former king of the country.' which probably stood in front of what is now known as Cave H, which contained Bamiyan's largest seated Buddha image. The remains of this *samgharama* (temple) have also not yet been found. Xuan Zang goes on to note the existence of another standing Buddha which was over 100 chi in height to the east of the *samgharama*. This would be the 38-metre East Buddha. Since Xuan Zang tells us that there were scores of *samgharama* in the area, it is likely that at least half of the cave temples known today were being used by this time.

The two colossal Buddhas which Xuan Zang admired were thought to have been created from the end of the fifth to the middle of the sixth century, an estimate which is based on the complex conception of the traditional and Buddhist cosmology (see below). The east colossal Buddha is called the Sakya Buddha by Xuan Zang (Plate 13), but any Buddhist name was not given to the west colossal Buddha by him (Plate 14).

When he left Bamiyan, Xuan Zang also left us with a mystery: he describes a reclining figure of the Buddha in Nirvana, more than one thousand chi in length, in a *samgharama* at two or three li to the east of the royal place. Could the remains of such an immense image—some 300 metres long—really still be lying somewhere in the valley?[3]

The Silla monk Hui Chao was the last to describe Bamiyan's appearance as a Buddhist city. In *Memoir of a Pilgrimage to the Five Regions of India*,[4] Hui Chao writes that when he arrived in Bamiyan from Ghazni in 726, the ruler belonged to an ethnic group called the Hu, with no allegiance to any other nation, but, strangely enough, he makes no mention of the colossal Buddhas seen by Xuan Zang. Nearly a century after Xuan Zang's visit, Bamiyan was still a Buddhist

[3] Prof. Tarzi is currently excavating in the Bamiyan Valley, trying to uncover this reclining Buddha, see Tarzi in this Volume, chapter 9.

[4] *Wang Wu Tianzhuguo Zhuan.*

city, but Hui Chao notes that both the Theravada and Mahayana traditions were being practized in contrast to Xuan Zang's time, when the teachings had been exclusively Theravada.

Not long after Hui Chao left Bamiyan, during the reign of the second caliph of the Abbasid caliphate, al-Mansur (754–775), the King of Bamiyan surrendered to Islamic forces under Mazahim b. Bistam. The thorough introduction of Islamic culture to Bamiyan began after Sultan Mahmud assumed control of the Ghaznavid dynasty (998–1030). With the arrival of Islamic culture, it is clear that the centre of the ancient city was moved from the northwest of the valley towards the southeast, and the plain surrounding Shahr-i Bamiyan. It is believed that the fortresses of Shahr-i Zohak at the eastern end of the valley and Shahr-i Khoshak at the northeastern end also took on new functions at this time. Under the Ghurid dynasty (1155–1212), Bamiyan probably assumed even greater significance. One can imagine the smoke rising here and there from the pottery kilns in the area around Shahr-i Bamiyan. Not long afterwards, the Mongolian Armies led by Genghis Khan invaded Bamiyan which was a terrible disaster for this area. After that, Shahr-i Bamiyan would be called Shahr-i Gholghola, the people dwindled, and Bamiyan swiftly sank into historical silence and an obscure period.

The Great Composition on the Ceiling of the East Colossal Buddha: The Sun God Soaring in the Heavens[5]

The finishing touch of the foundation of the colossal Buddha statue was to paint the vault and the lateral walls of the Buddha niche. When one looked up at the statue, the vault which decorated the overhead of the Sakyamuni Buddha was meant to be the symbol of transcendence and, at the same time, was meant to reflect the philosophy of the world entertained by the royalty and nobility who promoted the large-scale project to create the colossal Buddha statue. The design of the great composition which decorated the vault of

[5] In this contribution a mix of tenses can be found; although the past tense would be more correct in view of what happened in 2001, the use of the present tense every now and then is considered most appropriate in view of the poetic context (ed.).

the statue was probably entrusted to the artisans who could give full value to the remarkable presentation of *imago mundi* (Plate 35). The artisans finished the unparalleled mural paintings by giving the impression of having being helped by the gods.

In the centre of the great composition, the great sun which shines across every corner of the world was painted. The blazing sun was depicted with saw teeth on the edge of the large disk at the back of the central deity. The sun could absorb everything as the symbol of omnipotent invincible divinity. Both the traditional sun worship of the nomads and the Buddhist symbolism, which metaphorically compared the transcendence of Sakya to the sun, could be represented here by the sun as the epiphany of super divinity. At the same time the artisans would be required to paint the image of the Sun God doubling up with the conception of the world, something which was required by the royalty in this province.

The Sun God was painted as the figure which soars the heavens riding on a two-wheeled golden chariot pulled by four winged white horses. The Sun God is depicted with a nimbus and ribbons flying up from both shoulders symmetrically. He wears a mantle, the skirt of which is waving in the wind, on a round-neck tunic, holding straight a rather slender spear in the right hand and also grasping the hilt of a sword hung from the waist belt in the left hand (Plate 16b).

The winged figure clad in boots which can scarcely be seen on the axle of the chariot will be a charioteer. The wheel is represented by a half circle with spokes. The divinity riding on a two-wheel chariot has been painted in various types of Buddhist iconography from Bodh Gaya all the way to Kizil and Dunhuang, but there is no example such as the Sun God of Bamiyan that was represented as the main theme in an independent great composition. There are some examples which show four horses pulling a chariot, but the iconography that depicts two pairs of horses separated into right and left and looking at each other, as the white horses of Bamiyan, is a very rare example. Such differences in the details prove how creative the composition devised by the artists of Bamiyan was.

At both the right and left side of the chariot on which the Sun God is standing, two winged attendants are painted. The winged female attendant painted on the left side wears the Corinthian helmet with a feather and has the nimbus behind her head and a shield in her left hand. The attendant on the right side also wears a helmet, having a circular nimbus behind his head and a bow in

his left hand. He seems to be ready to place an arrow in the bow.

In the centre of the upper part of the great composition, there are several white birds flying in the sky and on both sides of these birds there are wind gods flying with scarves in both hands. Their hair waves in the breeze (Plate 16a). Beneath the wind gods, a pair of half-man and half-bird figures flying with a torch in their left hand is depicted. And on the right and left edges of the composition, a bank of clouds is painted. In the clouds, four faint round shapes can be distinguished.

There is no precedent for such a great composition even in the iconography of India and Gandhara. The representation of the planet painted on the vault of a rock cave at Dunhuang, and those of the 38th cave at Kizil and the 46th cave at Kumutra seem to be slightly similar, but they are far beyond the magnificent one of Bamiyan.

There is no longer any doubt that the Sun God engulfed by the radiant disk doubles up with Sakyamuni as the *dharma cakravarti raja* which was metaphorically said to rule the cosmic chariot. Enforcing this idea are the twelve spokes on the chariot soaring in heaven thereby symbolizing the circulating time. Yet, this composition consisting of multiplex concepts cannot be explained by Buddhism alone.

Relations with the World of the Avesta

In the study of the great composition of Bamiyan, which places the Sun God in the centre, the relationship with the Iranian world of the Avesta should be taken into consideration, as Benjamin Rowland, Professor of Fine Arts at Harvard University pointed out.[6]

The hymn 'Mihr Yasht'[7] in the Avesta, the sacred book of Zoroastrianism tells us that

> Mithra drives the golden chariot, the four horses which pull the chariot are all white, they eat the foods of heaven to be immortal, and they wear golden hooves on their forelegs and platinum hooves on their hindlegs.

It is natural that those horses soaring in heaven are winged. The composition of the four horses which pull the chariot of the Sun God Helios and the composition of the two horses of the twin-god Dioscuri

[6] Rowland 1938.
[7] Gershevitch 1967.

which soar in the same direction, face to face, are common types in Hellenistic art which has been conveyed by means of the coins of Bactria. And now in Bamiyan, the theological motif of Sassanian Iran was poured into this mould. As 'Mihr Yasht' describes, the chariot is painted yellow in colour to indicate 'the golden chariot'.

'Mihr Yasht' continues the hymn and sings, 'The charioteer steering the chariot is the tall and good Ashi' and thus the name of the charioteer is disclosed. Concerning this charioteer, it was impossible to distinguish anything except for the legs clad in boots in the great composition of Bamiyan. Ashi is the goddess of luck, one of the subordinate *yazata* which attend Mithra. According to the comparative mythologist George Dumezil, it is said that Ashi was the equivalent of Bhaga in India.[8] The attendant who is seen on the left side of the Sun God Mithra, holding a shield in the left hand and wearing a breastplate, has for a long time been compared to the figure of goddess Pallas Athena. Even though there are some differences in the shield or its position, there is no doubt that this attendant is a copy of the figure of Athena which had already been known from a Bactrian coin. In the gold coin of King Huvishka of Kushan dynasty, as Franz Grenet clearly pointed out in his excellent article 'Bamiyan and the Mihr Yasht',[9] the name of the goddess Athena is engraved as 'Rishto'. Rishto is 'Arshtat who enlarges the world' as described in 'Mihr Yasht'. Arshtat was the goddess of justice and one of the female *yazata* who attends Mithra as well as Ashi. This goddess who wears a Corinthian helmet in style follows the iconography of the god Athena, but the meaning of the iconography is drawn from the theology of the Avesta.

The attendant on the right side, who wears a helmet and normally pairs up with Athena (Arshtat) might well be the deity Vanainti (Nike) Uparatat, which means 'the excellent power to gain victory'. The same divinity forms a pair with the god Sraosha (Mithra) in the Avestan Yasna. This is the goddess who is represented by the figure of the goddess of victory Nike, but is engraved with the name of 'Vanindo' on a coin of Huvishka of the Kushan Dynasty. The reason why all of the three goddesses, Ashi, Athena (Arshtat) and Nike (Vanainti) are winged would be to give them the same status

[8] Dumezil 1947.
[9] Grenet 1994.

as the goddess of victory Nike, and to show these figures as archangels and worthy subordinate divinities of Mithra.[10]

The standing figure of the central god Mithra was probably produced from the idea to make a polyvalent iconography that places the image of the Hellenistic figure Helios on the base and puts the Sassanian iconography of Mithra thereon and, furthermore, puts the iconography of the traditional god of Sogdiana over it. The bust of Mithra seen in the mark of the seal of the Sassanid Dynasty, which is in the possession of the British Museum, clearly shows how much the image of the Sun God of Bamiyan strongly depends upon the presentation of the iconography in Iran. It can be said that both of the images are painted using iconography that exactly fits the hymn of 'Mihr Yast' that describes 'a warrior who is excellent in martial arts, holding a long spear with a sharp head'.

Above the head of the god Mithra, several white birds are flying in the sky with their wings spread. They are thought to be Hamsa (geese) that indicate the circulating seasons. And it is also thought that they symbolize the moon as they are the sacred missionary birds of the Moon God. We discovered the image of the Moon God which was pulled by Hamsa on the wall of a small Buddhist cave in Bamiyan (cave M) situated to the east of the colossal Buddha statue.

The flying deities with something resembling a scarf in both hands on the right and left side of Hamsa will be the wind gods Vata described in 'Mihr Yasht'. The hymn describes 'the wind smashes a devil, attending Mithra' and also 'the wind blows away the spear thrown by the enemy of Mithra'. The wind god plays a role as herald of the Sun God Mithra which soars at full speed. The Avesta tells us that the wind god always leads as a metamorphosis of the god Verethraguna.[11] In my opinion the wind gods as a pair secretly reveal the dualistic feature of the Avestan theology.

The half-human and half-bird figures situated on the right and the left sides are Kimnaras, surrounding the solar disk together with the wind gods. In Buddhist texts, Kimnara is regarded as 'the god of music' and also 'the god of incense', but the Kimnaras in Bamiyan wear a cap with a long narrow ribbon and hold a burning torch in the left hand and something resembling an incense-burner with a

[10] Grenet, *ibid.*
[11] Dumezil, *ibid.*

handle in the right hand. As 'Mihr Yasht' says that 'fire is flying in front of Mithra', Kimnara is probably presented here dressed in an Iranian-style costume as 'the torch holder' (*dadophoros*).

Furthermore, banks of swelling clouds are seen on both edges of the composition. And, therefore, if the two disks symmetrically positioned two by two in the cloud could be taken to be the stars, it is concluded that the six elements, the sun, the moon, the stars, the clouds, the wind, and fire all exist in this great composition. Then, it might be said that those are exactly the symbolic representations of six attending divinities, Amesa Spentas, being the projected images of the unique god of Zoroastrian theology, Ahura Mazda.

The Double Image of Mithra and the Dharma Cakravarti Raja

The god Mithra that soars at dawn in the blue sky, driving a two-wheel chariot over the mountains of Hara (this might be the Hindu Kush), will be a symbol of the religious cosmology of the people who founded the colossal Buddha statue in the eastern cliff of Bamiyan. It is thought that Mithra was accepted, doubling up with the image of Sakyamuni as the *dharma cakravarti raja* who turns the wheel of law, by those people who were looking for a basic recovery of Buddhism in Bamiyan. Bamiyan had been newly opened as an important place for trade and for Buddhism, taking the place of the declining Gandhara. For the royalty and nobility, the double image of the Sun God and the *dharma cakravarti raja* must have been a welcome ideal.

It was due to the far-sightedness of Joseph Hackin, who comprehensively investigated the Buddhist sites of Bamiyan for the first time, that he characterized the Buddhist arts of Bamiyan as Irano-Buddhist arts. In 1969 we discovered two long narrow ribbons flying upward from both shoulders of the Sun God in the composition, and this tended to reinforce his opinion.

In the already mentioned extraordinarily important document of Xuan Zang, he refers to 'celestial deva, showing signs or omens to indicate good fortune or evil in accordance with the amount of the merchants' donation'. This 'celestial deva' could well be the god of contract Mithra, that 'is always awake and watches over' from the head of the colossal Buddha statue. Mithra was the god of truth and faith, and also the god that guarantees contract and punishes persons who disobey the oath. For people who are engaged in trade,

the sign of luck brought by the god that guarantees credit must be their lifeblood.

Mithra was also the god that as 'the owner of a large pasture, brings good harvests, livestock, and posterity and lives'. It seems that Mithra could merge with Buddhism quite well because of its multilateral aspects as the old Aryan god.

The Dramatic Scene Painted on Both Sides of the Wall

On the east and west wall beneath the great composition, the sitting images of Buddha and Bodhisattvas, and the scene of the royal family procession led by a priest are painted in profile, facing the lateral sides of the Buddha statue (Plate 16c). The Bodhisattvas, being separated from the royal procession, are situated on both sides of the sitting Buddha that wears a garment which somehow leaves the right shoulder and breast bare. They are painted as images sitting in the air outside the balustrade that divides the space into two, one for saints and another for laics. The Buddha does not wear any ribbons but the Bodhisattvas do. Each Bodhisattva is wearing a shawl that has two mountain-shape parts cut out, and has a sacred cloth in one hand. Hackin called the unique Bodhisattva that is wearing a head-dress and a *ratnavali* (necklace) 'the bejeweled Buddha'. And according to Paul Mus, this was one of the most peculiar representations of the Buddhist paintings of Bamiyan. Rowland took the Buddha and the Bodhisattvas to be the representation of seven past Buddhas and he regarded them as the representation of *Sambhoga-kaya* (the image of Buddha that has perfect benevolence) developed by the thought of the *Mahasanghika*.[12]

The royals wearing a nimbus might be regarded as saints. Most of the royal families painted on the east wall have a nimbus and ribbons on their shoulders, but some of the royal families painted on the west wall do not have these. This might be due to differences in the ranking order between them. The worshipping procession of royal families is led by a priest from right to left, facing the wall.

The person just behind the priest will be the king of Bamiyan who wears a characteristic crown, a round-neck tunic and a Sassanid

[12] Rowland, *ibid.*

crossband, holding a sacred ribbon in his right hand. One figure wears Central Asian nomadic clothes with a one-side-turn-down neck opened to the right, which are quite often seen in Toharistan. They are attending the worshipping ceremony, respectively having a sacred object, a flower and a ring (*khwarnah*), in their hands. The royals, the nobles and the benefactors who initiated and supported the idea of sculpturing the colossal Buddha statue are now attending the ceremony to commemorate the completion of the project. They perhaps took their seats at the balustrades provided just under the mural painting on both sides of the wall.

Those who are dressed pompously must have ascended to the balustrades on the occasion of *pancavarsika* held every five years. The donation or charity, *dana* in Sanskrit, to be given in *pancavarsika* was one of the very important moral deeds for the worshippers of Buddhism. And a magnificent *dana* by the king would be, as Emile Benveniste stated in his wonderful book,[13] an important religious and social demonstrative activity. In that sense, I think that the mural paintings of the vault of the east colossal Buddha were painted to represent an unforgettable moment, the national monumental festival which was held periodically in the form of a politico-religious assembly rather than to represent the sublime Buddhist world of *Sakya-tathagata*.

These masterpieces of mural paintings of the east colossal Buddha completely disappeared during the destruction of the colossal Buddha in March 2001.

The Mural Paintings of the West Colossal Buddha

The mural painting decorating the large niche of the west colossal Buddha is divided into two parts, the upper part and the lower part in the lateral wall. The upper part consists of a large composition decorating the ceiling of the niche. The lower part, on which the sitting Buddhas are painted in lines of threes, comes down to the level just above the shoulder of the Large standing Buddha (Plate 17b).

[13] Benveniste 1969.

The central part of the large composition that decorated the curved ceiling of the niche has mostly disappeared and it is impossible to see the grand design of this composition. But from the remaining fragments of the tree painted on the upper part and the representation of the lower part, it is presumed that in the centre of the composition the figure of the big sitting Bodhisattva will be painted like a *Pantokrator*. Just under the right end of the pedestal of the Bodhisattva a pair of the female musicians with a nimbus is painted. They are playing a harp sitting on the sofa, bending their left leg and stretching their right leg. They might be celestial musicians. Such female musicians are very similar to the mosaic musicians of Bishapur in the Sassanian dynasty (3rd century). And the bow of the harp played by two musicians in Bamiyan is similar to the harp painted on the wall of Panjikent (8th century), as is the winding celestial scarf on their arms. But the audacious nudity of the lower part of the body except for a loincloth which is seen in the ivory sculptures from Begram is very different from the celestial musician of Panjikent.

Downward from these images, a group of Bodhisattvas has been painted in two lines of threes. They are sitting on a chair with their ankles crossed and demonstrating various kinds of *hasta-mudra* (a symbolic sign expressing the contents and functions of the enlightenment of the deities). Their arms are also wrapped with a celestial scarf and girdles with a ginkgo leaf-shaped clasp are hanging from their shoulders.

On the capital supporting the trapezoid garbled arch two celestial beings are painted. One is female and one is male. They are standing under the tree. The trees, the echo of music and the sensuality of the nudity of the celestial beings will symbolize paradise (*buddha-kshetra*). The central composition designed on the curved ceiling of the niche separately extends into the east lateral wall and the west lateral wall. A group of Bodhisattvas sitting side by side is painted on both lateral walls. Originally nine Bodhisattvas were painted on each side, but now only six in the west and four in the east actually remain. In spite of this poor condition it is no exaggeration to say that these representations were one of the masterpieces of mural painting in the world (Plate 17a).

Maitreya Bodhisattva in the Tusita Heaven

The painted Buddhist world of Bamiyan accepts *kama-dhatu* (the realm of desire), *rupa-dhatu* (the realm of material form) and *arupya-dhatu* (the formless and immaterial realm) as *triloka* (the three realms). And it then makes us guess as to the existence of generous sensibility, calmly leading us to contemplate the transcendental world.

Beneath these representations of Bodhisattvas we find garlands, banners, curtains, nets and triangle patterns. These decorative friezes form the lower part of the painted canopy.

As mentioned above, the vacant centre of this grand composition is supposed to be occupied by the figure of a big sitting Bodhisattva. I assume that this Bodhisattva should sit under the dragonflower tree (*naga-puspa*) in the Tusita Heaven. A Bodhisattva of this type is the Bodhisattva Maitreya himself as is described in the Sutra of 'Meditation on Maitreya Bodhisattva's Rebirth on High in the Tusita Heaven'.[14] This Sutra forms a pair with the Sutra of Maitreya's Rebirth.[15] In the Tusita Heaven described in the Sutra the bejewelled palace is surrounded by a fence, a row of trees, the sound of music, and assembled celestial male and female beings and Bodhisattvas. Tusita means 'satisfied' in the Sanskrit language. The theme of the grand composition painted on the canopy is the Pureland of Maitreya in Tusita Heaven.

In the mural painting on the ceiling of the niche of the eastern big Buddha, the Iranian Sun God Mithra was drawn flying very dynamically in the sky, pushing his own way through the clouds. In contrast, the painted Buddhist world of the west big Buddha is very contemplative. The differences could be explained because the deepness and maturity of Buddhism in Bamiyan had changed.

Beneath the decorative frieze five Buddhas sitting side by side in lines of three are painted in the east and west lateral wall of the niche. The Buddhas in the second and third line have suffered fading and have largely disappeared. The first line of Buddhas remain in comparatively good condition. All Buddhas sit cross-legged, but their mudras are different. Above all, one Buddha painted in the most inner part of the east wall is particularly noticeable. It is the

[14] 'Kuan mi-lo p'u-sa shang sheng tou-shou t'ien ching.'
[15] 'Mi-lo hsia sheng ch'eng fo ching.'

so-called 'bejewelled Buddha' wearing a monastic garment as Buddha, covering his shoulders with the jewelled cape, wearing a head-dress with three-sided crests formed by the oval and crescent shapes, having an alm bowl in the left hand, and showing the dharmacakra mudra in the right hand. This bejewelled Buddha will be the composite image of Maitreya Cakravartin/Boddhisattva/Buddha based on the descriptions of the Sutras. There are various kinds of bejewelled Buddhas in Bamiyan.[16] However, the bejewelled Buddha painted on the east wall of the niche of the west big Buddha implies to have a special meaning. This metaphorical Buddha will be Maitreya just descending from the Tusita Heaven as Cakravartin/Boddhisattva/Buddha.

Another noticeable aspect is that the figure of the donor carrying offerings on his head appears in the east wall. He wears a tunic with a turn-down collar and a small sword at his waist. This is reminiscent of the figures that appeared in the Sogdian mural paintings. In Bamiyan we can find similar figures wearing tunics in the caves[17] around the east large Buddha.

Beneath these representations, in the projected parts of the niche we can find the flying celestial deities. The figures in five irregular oval shapes which are painted respectively in the east and the west side are different. One of the figures on the east side has an extra eye in the middle of the forehead and is grasping a spear in the right hand and this will be a Brahmanic *deva* attending a Bodhisattva/Buddha. The figures on the west side represent a trinity within an oval setting (Plate 17b). One flying deity is in *anjali* (joined palm to palm in front of the breast for adoration), another one is carrying a plate full of flowers and the third one is about to scatter flowers as an offering. The differences in the movement of the flying deities are caused by changing the position of the figure in *anjali* and of the figure carrying the plate before the central figure. In this way the images become more active.

Maitreya Buddha Descended from the Tusita Heaven

Beneath the representations of the flying deities there are groups of Buddhas who sit under a tree wearing robes over their left shoulders,

[16] In the niche of the east large Buddha, Cave Ee, Cave I, Cave K, Cave XII.
[17] Cave C and Cave M.

crossing their legs with the soles of the feet pointing upwards. These are painted on the east and west walls of the great niche. The most noticeable Buddha among them is the Buddha painted in the northern end of the east wall. This Buddha in the *dhyana mudra* (meditation) sits on a carpet and flames emanate from his shoulders. Such flames are known to symbolize the miraculous moment of the Dipankara Buddha or Sakyamuni Buddha, as seen in the legendary scene sculptured in Paitava and Shotorak near Kabul.

This Buddha was present at the decisive moment when Bodhisattva Maitreya in the Tusita Heaven descended to earth, for the purpose of salvation (*paritrana*). The west colossal statue should therefore be Maitreya Buddha descended from the Tusita Heaven as described in the Sutra of Maitreya's Rebirth. In the western great cliff the world of Maitreya Bodhisattva in the Tusita Heaven and the world of Maitreya Buddha from the Tusita Heaven were given shape by means of painting and sculpture.[18] Unfortunately they were also destroyed by the Taliban regime in 2001.

Concluding Thoughts Concerning Buddhism in Bamiyan

In Bamiyan there were three colossal Buddhas, the east colossal Sakyamuni Buddha, the colossal reclining Nirvana Buddha and the west colossal Maitreya Buddha. These peculiar and enigmatic gigantic figures in Bamiyan can be explained not only by the development of the doctrine of Bamiyan Buddhism over a period of about three hundred years, but also by the strong requirement for the superiority of Buddhism in this region in which various different beliefs and cultures emerged. The Bamiyan site was the crystallization of humanistic wisdom, thought and technique.

Safeguarding the Bamiyan Site

After the disastrous blowing up of the colossal Buddha statues by the Taliban regime, UNESCO has been helping to protect the

[18] Maeda 2002; Miyaji 2003.

Bamiyan site which is the most important cultural heritage site of Afghanistan. In the autumn of 2002 the JAPAN-UNESCO Joint Mission visited Bamiyan[19] and confirmed that the sites had suffered a great deal of damage. The seated Buddha in Cave C, where a beautiful Bodhisattva was painted in the niche, and the standing big Buddha in Kakrak were also demolished by dynamite. About 80% of the mural paintings were destroyed.

In 2003, the protection of the site started with international cooperation upon the initiative of UNESCO. An Italian expert group led by Prof. Claudio Margottini tried to analyze the rock material (silt, sand, gravel) and to develop a plan for the preservation of the east colossal Buddha's niche and urgently to stabilize the upper part of the niche. A Japanese expert group belonging to the National Research Institute for Cultural Properties (NRICP) started to collect all the fragments of the mural paintings destroyed and scattered in the caves, and temporarily closed off access to those caves in which the paintings still remain on the walls. A German expert group investigated the original debris of the destroyed colossal Buddhas and looked at the best way to remove them from where they fell and to conserve them.

In 2004, the Italian group completed emergency consolidation works in the eastern upper part of the niche of the east colossal Buddha (Plate 19b). The progress was reported in detail by Prof. Margottini in the third working group meeting held in Tokyo from 21st to 23rd of December 2004.[20] The Japanese group accomplished its work of collecting the fragments of the mural paintings and fitting a wooden door to the entrance of the caves in order to prevent looting. We also surveyed all the sites and the monuments (religious/Buddhist/Islamic & historical) and prepared a master plan for Bamiyan. The German group continued its work of removing the colossal Buddha's remains which lay on the niche floor.

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19 See also Manhart in this Volume, chapter 3.

20 The Expert Working Group on the Preservation of the Bamiyan site did meet for the fourth time in Kabul from 7 to 10 December 2005. Following the previous Bamiyan working groups and the efforts carried out in 2005, a group of Afghan and international experts did examine the progress of the consolidation of cliffs and niches, the preservation of mural paintings, the conservation of the remains of the statues of the Buddha, the preparation of the master plan, the development of the archaeological survey and the creation of a 3D model map. It did also, as it has in the past, make concrete recommendations on follow-up activities. See http://whc.unesco.org/en/events/253.

Due to such international cooperation the ancient site of Bamiyan is now reviving. A German group has analyzed the original material making up the garments of the east and west colossal Buddhas by means of Carbon 14 measurements and it has obtained the interesting results of the radiocarbon dating. The east colossal Buddha dated from the beginning of the sixth century A.D. and the west colossal Buddha dated from the middle of the same century.

The Japanese group also investigated the date of the mural paintings by means of the same carbon measurements. This was done by using the samples taken from the earthen layer of the paintings in the 27 caves. As a result of this, the caves in Bamiyan, Kakrak and Foladi can be safely dated between 450 and 850 A.D. The earlier caves dated from around the mid fifth century. They are Cave J(b), Cave J(g) and Cave M in Bamiyan. These scientific datings might provide very important clues for the further study of Bamiyan.[21] Bamiyan is not a fossil site, but a living site recreating new values and leading us to new discoveries.

References

Benveniste, E. 1969 *Le Vocabulare des Institutions Indo-Europeennes*, Paris.

Dumezil, G. 1947 *Tarpeia*, Paris.

Gershevitch, I. 1967 (transl.) *The Avestan Hymn to Mithra*, Cambridge.

Grenet, F. 1994 'Bamiyan and the Mihr Yasht', *Bulletin of the Asia Institut* 7.

Hui Chao 726–727 "Wang Wu Tianzhuguo Zhuan", 'Memoir of a Pilgrimage to the Five Regions of India'.

Maeda, K. 2002 *Bamiyan Buddhist Site of Afghanistan*, Tokyo.

Miyaji, A. 2003 *The Iconographical Program of the Murals in the Ceiling of Bamiyan Caves*, Nagoya University.

Rowland, Jr. B. 1938 *Buddha and the Sun God*, Zalmoxis.

Xuan Zang (Hsuan-Tsang) 1884 (transl. by S. Beal) *Si-Yu-Ki: Buddhist Records of the Western World*, 2 vols, London.

[21] *Protecting the World Heritage Site of Bamiyan*, National Research Institute for Cultural Properties, Tokyo, 2004.

CHAPTER NINE

TARZI ON TARZI: AFGHANISTAN'S PLIGHT AND THE SEARCH FOR THE THIRD BUDDHA

Nadia Tarzi

Situated at the crossroads of the Indian peninsula, the Iranian Plateau and Central Asia, Afghanistan has enjoyed an exceptional location since the beginning of time. Therefore, its amazing art and archaeology reflect an array of influences originating from its neighbouring countries and from the passage of many civilizations. Ever since the late Paleolithic, the Neolithic and the Bronze Age, Afghanistan has always been a necessary milestone for Caspian, Bactrian, and Indus cultural exchanges. Many 'invaders' and 'migrants' settled there, attracted by its potential wealth and strategic value. Indo-European, or 'Aryan' people from the Northern steppes first occupied Afghanistan. In the fourth century B.C. Alexander the Great came to Afghanistan and built countless cities throughout the country. He was considered the founder of the Graeco-Bactrian kingdom. Later on in the second century B.C. that very same kingdom was destroyed by the Scythians, who had come from the North. Their nomadic kings established cities and created works of public utility, preparing the way for the Kushan regime.

Under the enlightened Kushan kings the various different religions, customs, traditions, languages and cultures were all respected. Buddhism was accepted as the main religion along with Iranian, Greek and Indian faiths: these were peaceful times indeed.

The Kushan monks erected Buddhist monasteries and stupas with elaborate sculptured ornamentations, most of them now known as the Graeco-Buddhist art of Gandhara in Afghanistan and Pakistan. The Bamiyan Buddha statues were an outstanding example of this art form.

Following the Muslim conquest in the seventh century A.D. Afghans converted to Islam whilst continuing to create artistic masterpieces in particular during the successive reigns of the Ghaznavids, the

Ghurids and the Timurids. Many of these masterpieces can still be admired.[1]

Archeological Memory

The archaeological memory of Afghanistan is a sum of remarkable results, research and memories. Since the first digs in the 1920s by the Afghan archaeologist Mamour Golan Mohayyuddin Khan, Afghanistan has seen many renowned magicians of the trowel who have unearthed history and revealed secrets of lost civilizations. Excavators left their names for eternity. Future generations may read and remember the works of Foucher, Godard, Barthoux, Hackin, Carl, Meunie, Ghirsman, Hahmad Ali Khozad, Schlumberger, Le Berre, Gardin, Dagens, Fussman, Bernard, Francfort, Grenet, Lyonnet, Gentelle, Rapin, Ligier, Veuve, Fisher, Dulles, Tucci, Sceratto, Taddei, Verardi, Silvi Antonini, Witchouse, Mc Nicoll, Helms, Pougatchenkova, Krouglikova, Sarianidi, Sen Gupta, Mustamandi and my father Zemaryalai Tarzi.

Thanks to these experts hundreds of archaeological sites, historical monuments, and thousands of unique cultural and historical objects relating to different periods of pre- and proto-history, such as the Stone Age, Bronze Age, the Achaemenids, Graeco-Bactrian, Kushan, Sassanid-Hephtalites, Hindushahis, and Islamic, were unearthed and researched. The unearthed objects and relics originating from these excavations and of great artistic and historical value were kept in the National Museum of Afghanistan in Kabul and a large number of them were also preserved at the depot of the Archaeological Institute of Kabul.

Unfortunately, due to the Soviet Invasion in December 1979 the international scientific and cultural activities in Afghanistan in the field of archaeology came to a halt. From 1992 onwards, as the country descended into civil wars the government departments were plundered and over half of the city of Kabul was destroyed. The Kabul Museum was severely damaged and burned and many of the objects

[1] See the contributions by Thomas & Gascoigne and Leslie in this Volume, chapters 10 and 11.

were looted. The Archaeology Institute's objects and documents faced a similar fate, not to mention the loss of the manuscripts and miniatures that were in the Royal Library and other archives. Moreover, illegal and extensive digging started at most historical sites and as a result thousands of valuable objects were transported to the international black markets via Pakistan.

Afghanistan's Plight

Never in the world's history has the heritage of a country suffered as much as the Afghan archaeological heritage. The grief and irreparable losses such as the destruction of the Bamiyan Buddhas, the destruction of the Tepe Shotor site, the overwhelming looting of Ai Khanum, the destruction and looting of Afghanistan's museums and institutes is difficult to comprehend. A point in case is the disappearance of the priceless 4.5 tons of gold, silver, bronze and copper treasure of the Mir Zakah water source near Gardez, illegally excavated with hydraulic pumps from 1993–1995 by local people and commanders with the encouragement of Pakistanis and Afghan dealers. It is believed that a large part of the treasure resides 'anonymously' at the Miho Museum in Japan.

Mention should also be made of the loss of the ancient sites of Tilla Tepe, Delbergin Tepe, Surkh Kotal, Rabatak, Ghazni, Balkh and Kharwar. The site of Ai Khanum, for instance, known in Uzbek as 'lady moon', shows the remains of a Greek city that revealed for the first time in Afghanistan typically Hellenistic monuments as well as columns made entirely of stone with capitals representing the 3 Greek orders: Doric, Ionic and Corinthian. This site was so extensively looted that it now resembles the crater landscape of the moon.

The site of Begram, a city founded by Alexander the Great and which later became the summer capital of the Kushan kings, is of great archaeological importance because of the discovery of bronze statues, Chinese laquerware, ivory caskets, dishes and painted glassware. More than 95% of the hand-blown glass found in the world dating from the Hellenistic period and more so the Roman period was exhumed in Begram. The loss of many objects from the Begram treasure is tragic in many respects.

One should also mention the sites of the regions of Herat, Maymana, Balkh, Samangan, Kunduz, Badakhshan, Takhar; the mountainous

regions of the center of Afghanistan such as Bamiyan, Yakaoling, further South, Panjshir, Kohestan (especially Khom e-Zargar), Kapisa, Begram, Kabul, Jalriz, Maydan Shahr, Kandahar, Hilmand, Seistan; and let us not forget the eastern regions such as Jalalabad, Tepe Shotor-e-Hadda, (beautiful Buddhist monasteries, excavated by the French and the Afghans, Dr. Chaibai Mustamandi and Dr. Zemaryalai Tarzi), an immovable outdoor museum, the first in Central Asia and a masterpiece of Gandhara art, which was burnt, demolished and hundreds of its unique moldings plundered or simply destroyed; then Kunar, Laghman (especially Khoguiani), Patchir and Agam etc.

During the oppressive Taliban regime cultural activities were severely restricted and diminished. Ignorance and oppression ruled everywhere throughout the country. As we know, Bamiyan's two colossal statues, along with others in the Foladi valley and Kakrak, were dynamited and numerous statues in the collection of the Kabul Museum were destroyed in 2001, which inflicted irreparable losses on our cultural heritage. The Minar-i-Chakari (Plate 38a), one of the most important monuments of the first century A.D., was also a victim of the fighting.

These sites, only a few in a very long list, were each and every one of them unique and kept in their walls and objects the memories and stories of the tumultuous history of Afghanistan, a mountainous country in the heart of Asia. All have been subjected to illegal diggings by local commanders for the past twenty years or so, before the Taliban, during the Taliban and they are still being looted today, after the Taliban. This is the devastating result of war, neglect and international indifference that under no circumstances can be compensated. In a war-stricken country one can repair or even renovate roads, bridges, schools, hospitals, but a lost and destroyed cultural heritage can never be repaired nor renovated.

Yet, all has not been lost and we must urgently and continuously sound the alarm once more on the illicit digs with their unregistered objects so easily mistaken with objects originating from other sites or worse, fakes mistaken for original pieces. All of which disrupts and erases the history, not only of Afghanistan's past, but also that of Central Asia. Smugglers are very well organized and every year thousands of valuable objects and their historical data take the route to Pakistani cities to be lost forever in the depths of the black market—despite the many efforts by the Minister of Culture in Kabul to impose a level of control.

APAA, the Association for the Protection of Afghan Archaeology

It is with this sense of urgency, responsibility and love for Afghanistan and its people that the Association for the Protection of Afghan Archaeology (APAA), a Californian non-profit organization, was founded in 2003 by the present author. The Chairman is Dr. Zemaryalai Tarzi, the former Director of Archaeology and Preservation of Historical Monuments of Afghanistan and the former Director General of the Archaeology Institute of Kabul, now active as Professor of Eastern Archaeology in France as well as the Director of the Bamiyan Survey and Excavation Mission funded by France and the National Geographic Society. The APAA Board of Directors is composed of distinguished experts such as Professor David Stronach, Professor Richard Salomon, Dr. Donna Strahan, Dr. Arlene Blum and other committed individuals such as the CBS5 anchor Dana King, Attorney Robynn van Patten, Engineer Yann Ischi, and Engineer Fariar Khozad to name but a few of a growing dedicated team.

As its name indicates, the APAA is dedicated to the protection of the archaeological heritage of Afghanistan. Its goal is to bring understanding and raise awareness as well as to ensure the promotion of the Afghan archaeological and cultural heritage.[2] APAA also serves as an advisor on matters specific to the archaeological heritage of Afghanistan, conservation, preservation, excavation techniques specific

[2] This is realized through its teaching in schools and public venues internationally, including in Afghanistan and in the Afghan and multicultural San Francisco Bay Area community. It of course includes increasing international awareness concerning the inherent value of archaeological treasures to cultural identity. APAA assists in educating the younger generations as well as the older ones. This is done by publishing children's and scientific books as well as providing education and training programs and tools in Afghanistan for future archaeologists so they may, in turn, become self-reliant and efficient professionals of the trowel and skilled restorers. Finally, APAA hopes to inspire future generations in having the incentive to learn about, protect and preserve their unique heritage and further educate themselves and others on the importance and value of archaeological and historical heritage.

APAA is seeking to form partnerships and receive support and assistance from universities and other archaeological institutions to continue and revive a long scientific tradition by assisting the Afghan historical and archaeological institutions, such as the Archaeology Institute of America, in their comeback and scientific endeavors. This can be achieved by bringing punctual help scientifically and materially (tools, equipment etc.), developing student and scholarly exchanges between Afghan universities, museums and international institutions, and organizing conferences.

to the Afghan terrain and of which Professor Tarzi has extensive hands-on experience. Members of the Kabul Museum and the Archaeology Institute have welcomed Professor Tarzi's input and expertise wholeheartedly as most of those concerned are his former students or colleagues from a time when Afghanistan was at peace and its archaeology hugely successful in its independent scientific and preservation accomplishments.

APAA provides assistance in the recovery process of the archaeological and cultural property of Afghanistan and also advisory consultation, written advice or editing legislation and the creation of lists of objects for recovery purposes.

Another aspect of APAA is the publication of scientific material as well as educational material on Afghan Archaeology and providing a platform for the translation of the said publications so as to make them available to a larger group of researchers.

It spearheads and assists in excavation campaigns in Kabul, Bamiyan and other sites as needed. The latter began following the fall of the Taliban.

The Bamiyan Survey and Excavation Campaign

As indicated above, Professor Tarzi was nominated in 2002 by the French Government as the Director of the Bamiyan Survey and excavation campaign. Funded by the French Ministry of Foreign Affairs and since 2004 co-funded by the National Geographic Society, the mission has undertaken the first excavations ever of the Bamiyan monasteries and its royal city and includes the search for a 1000-foot-long reclining Buddha statue. The finds have so far been fantastic (Plates 60a and 60b).

In addition to the potential discovery of the 1000-foot reclining Buddha statue, the results of these excavations regarding the dating of Buddhist ruins as well as the genesis of Bamiyan's art history is of great scientific help. His research opens up a new chapter that enlightens the scientific horizon of Bamiyan's archaeology and underlines the major role of Bamiyan as well as the expansion process of its Buddhist art and thinking towards Central Asia, China, Korea and Japan.

To Tarzi, this is not a new subject, as his adventures in this realm started a long time ago. He was in his twenties and was studying with Professor Daniel Schlumberger when he began his thesis on the

Architecture and Décor of the Bamiyan Grottos and stumbled upon a text by the famous Chinese pilgrim, Xuan Zang, who visited Bamiyan in 632 and claimed in his writings to have seen a 1000-foot-long reclining Buddha in a monastery in Bamiyan in addition to a royal city[3] and the two colossal Bamiyan statues which we know of. During his research first as a PhD student and later as Director of Archaeology and Conservation of Historical Monuments of Afghanistan, Tarzi had undertaken several survey missions during his travels to verify the words of Xuan Zang who visited Bamiyan almost 1400 years ago. On various occasions, for instance at a conference in the Guimet Museum in Paris, Tarzi gave an account of his unfinished research at the time, insisting however on the certain probability of the existence of the 'Eastern monastery' where Xuan Zang saw a reclining Buddha statue some 1000 feet long. In 2003 and 2004 he opened sites which provided scientific information on the geomorphology of the terrain, flooding cycles, thaws of snow, the agricultural system, the installation of the Buddhist site and its partial recovery during the Ghaznavid and Ghurid periods.

In the continuation of the excavations of 2003 and with the success of the discovery of clay heads and fragments of clay-molded statues, the third campaign of excavations for 2004 was also very satisfying and more successful thanks to the discovery of several Buddha heads that confirm that the excavators found a monastery (Plate 60b). The question of course remains whether this is the monastery described by Xuan Zang as being 2 to 3 li to the east of the royal city where most likely the 1000-foot reclining Buddha rests. With further excavations in the coming years we will be able to fully verify the exactitude of Xuan Zang's words in more detail.

Professor Tarzi is eager to further explore scientifically the stratigraphic similarity between Bamiyan on the one hand, and Tape Tope Kalan of Hadda, Lalma and Tape Sardar of Ghazni on the other. Besides these spectacular discoveries that underline the importance of the artistic school of Bamiyan and more so its molding, his research is also concerned with the architecture of this very particular monastery. Indeed, by enlarging survey A he noticed that they were in the mass of an embankment's architecture, in an immensely

[3] See also Maeda in this Volume, chapter 8.

built massif which we designate as massif A. Composed of recovered condemned ancient galleries, of parallel built walls, a landfill and a bank of enormous quantities of all sorts of soil and clays, gravels, loose stones, glass shards of all kinds, pebbles, pottery shards, animal bones and fragments of clay-molded sculptures all of which fills the empty spaces which are left between the walls and other constructions.

He dated the first period as being from the third century A.D. The 2004 discovery of certain ceramics could result in a date as early as the second century A.D., a date he proposed in his first thesis on Bamiyan. It is to the second period that he attributes the realization and enlargement of the 'Eastern Monastery', in which they are attempting to find the reclining 1000-foot-long Buddha in *parinirvana* as related by the Chinese pilgrim Xuan Zang.

Following the dating of the 38 m Buddha by means of Carbon14 procedures undertaken by the Germans, in charge of the protection of the fragments of the colossal 55 m and 38 m Buddha statues, Tarzi is happy to say that their analysis of vegetable and animal fibers originating from the clay coating that covered the 38 m Buddha statue confirm his dating proposition for the beginning of the second period of Bamiyan as being from the end of the sixth century A.D. Encouraged by the mentioned analysis he proposes the following demonstration which confirms his proposed chronology:

> First of all the moldings that were buried in the A9 favissa are from before the end of the sixth century A.D. I date them as being from the third and fifth century A.D. based on stylistic criteria, techniques and especially based on the analysis of the pre-molded locks which I compared with the clay moldings of my own excavations in Hadda and of my colleagues M. Taddei and G. Verardi's excavations of Tape Sardar in Ghazni.
>
> We unearthed the second period of the 'Eastern Monastery' around the stupa's site. The historical demonstration based on our chronological proposition requires particular attention. It is necessary to take into consideration historical facts or to provide explanations by cross-checking with lucidity and impartiality. This for simple reasons: the history of Central Asia is not well known and no dates are sure, except of Chinese or Muslim sources as they shed some light on the II large period of Bamiyan.
>
> Based on excavation criteria we noticed that the first great period of Bamiyan is placed between the third and the fifth century A.D. We

will be able to go back to the beginning of this great period of Bamiyan to the second century A.D.

What is of interest to us is the chronology of the end of that period when a general degradation causes a large number of moldings to be desecrated. One can attribute this destruction to the Sassanid and Chapours powers or even the Hephtalites. For the moment we are uncertain. What is certain is that the hiatus between the first period and the second period is rather large and is translated in the accumulation of soil of 150 and 200 cm thickness.

What is also certain is that Bamiyan's second period must correspond to the seizure of the Western Turks. Indeed whether the central power of Bamiyan was Hephtalite or 'local Iranian' the politics at that moment in Central Asia were managed by the Western Turks, the same who asked Xuan Zang to do a detour through Balx (Bactres) and Bamiyan, two cities that were not on the Chinese pilgrim's initial itinerary.

The study of ceramics exhumed this year on our excavation sites still needs to be done. The discovery, however, of many pottery shards along the long wall V in survey N (North) brings us precise information. First of all, the ceramic that we will detail later was buried there between the sixth and ninth centuries A.D. Indeed, I will maybe attribute the end of the life of the 'Eastern Monastery'—ninth century A.D.—to Yaqub ben Lays Saffari.[4]

Or, in the words of Marc Kaufman, of the Washington Post, in an article entitled 'Afghan Archaeologist Seeks Sleeping Buddha':[5]

The world looked on helplessly four years ago as Islamic zealots destroyed two enormous standing Buddha statues overlooking Afghanistan's Bamiyan Valley, but recent explorations at the ancient site have led researchers to conclude that all may not have been lost. A third, much larger statue—a 1,000-foot-long sleeping Buddha—may still be buried nearby.

Inspired by the writings of a Chinese pilgrim almost 1,400 years ago, Afghanistan's foremost archaeologist is leading a dig within view of the cliff walls where the two Buddhas once stood. The initial goal is to find the ancient monastery that the Chinese traveler Xuanzang described around A.D. 630, and then the gigantic reclining Buddha that he said was inside its walls.

Although some promising discoveries have been made in the past two years, archaeologists do not really know what they might find beneath the cliffs. But the leader of the dig, Zemaryalai Tarzi, is opti-

[4] The full report for the 2005 excavation campaigns will be available shortly. For more information on APAA and how to get involved please visit www.apaa.info.

[5] February 7, 2005; Page A12.

mistic that important discoveries lie under the soil, and he will return to Bamiyan this summer to continue the excavation.

If it is there, Tarzi and others say, the statue would be a major archaeological treasure and would help restore the Bamiyan Valley to the top ranks of world heritage sites.

'If indeed Xuanzang's tales are true,' Tarzi says, he is digging for 'the largest reclining statue ever made in the artistic world.' Because the pilgrim was remarkably accurate in describing the gigantic size and location of the two standing Buddhas, Tarzi says there is good reason to believe his account of the reclining Buddha, as well.

To some, the search is a quixotic one. If the ancient Chinese pilgrim is to be believed, the sleeping Buddha is almost as long as the Eiffel Tower is tall. How could such a monumental structure disappear underground, some ask, and how could it be salvageable if it still exists?

Tarzi has possible answers: The statue could have been deliberately buried centuries ago by devotees to protect it from invading Muslim armies, or it could have been covered after a major earthquake.

References

Foucher, A. 1923 'Rapport A. Foucher', *Journal Asiatique*, April–June, 354–368.

—— 1942–1947 'La vieille route de l'Inde de Bactres à Taxila', *MDAFA* I, 2 vols., Paris.

Godard, A., Godard Y. & J. Hackin 1928 'Les antiquités bouddhiques de Bamiyan', *MDAFA* II, Paris, Brussels.

Hackin, J. & J. Carl 1933 'Nouvelles recherches archéologiques à Bamiyan', *MDAFA* III, Paris.

Hackin, J., Carl J. & J. Meunie 1959 'Diverses recherches archéologiques en Afghanistan (1933–1940)', *MDAFA* VIII, Paris.

Higuchi, T. 1983 *Bamiyan: Art and Archaeological Research in the Buddhist Cave Temple in Afghanistan 1970–1978*, (in Japanese), Kyoto.

Maeda, K., 2002 *Bamiyan. Buddhist Site of Afghanistan, Tokyo.*

Rowland, B. 1938 *The Wall-Paintings of India, Central Asia and Ceylon*, Boston.

Tarzi, Z. 1977 *L'architecture et le décor rupestre des grottes de Bamiyan*, 2 vols., Paris.

—— 2003 'Bamiyan: Survey and Excavation Archaeological Mission 2003', *The Silkroad Foundation Newsletter*. (available on http://www.silkroadfoundation.org/newsletter/december/bamiyan.htm)

—— 2003 'A la recherche du bouddha couché', *Les Nouvelles de Kaboul* 12, 7.

Tarzi, Z. & A.W. Feroozi 2004 'The Impact of War upon Afghanistan's Cultural Heritage', *AIA Publications*, Washington D.C. (available on http://www.archaeological.org/pdfs/papers/AIA_Afghanistan_address_lowres.pdf).

CHAPTER TEN

RECENT ARCHAEOLOGICAL INVESTIGATIONS OF LOOTING AROUND THE MINARET OF JAM, GHUR PROVINCE

David Thomas and Alison Gascoigne

The twelfth century Minaret of Jam is the iconic monument of contemporary Afghanistan (Plate 23). It is the second tallest baked brick minaret in the world, standing 63 m high, and was built by the Ghurid Sultan Ghiyath ad-Din in the year 1174/1175 (570 Hejira).[1] The Minaret, however, is merely the most visible aspect of the rich archaeological heritage of the surrounding valleys. These remains comprise the ruins of a large settlement, thought to be Firuzkuh, the summer capital of the little known Ghurid dynasty that ruled the area between 1100 and 1215.[2] The Ghurids rivalled, and finally supplanted, their eastern neighbours, the Ghaznavids, in 1186. Thereafter, they controlled a swathe of territory stretching from eastern Iran through Afghanistan and northern India to the Bay of Bengal, while jostling with their western neighbours, the Seljuks and the Khorezmshah. Their brief fluorescence ended with their defeat by the Khorezmshah and the campaigns of Genghis Khan around 1222. The destruction wrought by Genghis Khan and the Mongols in the thirteenth century levelled most of the cities and monuments of Central Asia, including those of the Ghurids. The Minaret of Jam survived, possibly due to its magnificence, religious significance or its potential usefulness as a watch-tower.

Firuzkuh and Juzjani

The city of Firuzkuh, however, may have been in decline before the arrival of the Mongols. Juzjani, the principal historical source for the

[1] Sourdel-Thomine 2004: 135–139.
[2] Vercillin 1976.

Ghurids, writing in the thirteenth century, states that the town's congregational mosque was destroyed in a flash-flood prior to the Mongol sieges.[3] It is unclear whether this occurred before or after the Ghurids' defeat by the Khorezmshah, who took Firuzkuh in 1210/1211 (607 Hejira). The same source also records that the fort withstood an attack from the Mongols in 1220/1221 (617 Hejira), at which time Juzjani's own brother was among those sheltering inside the town. During the final Mongol attack in 1222 (619 Hejira), Firuzkuh was taken and destroyed and the population massacred.[4] Significantly, archaeological work at Jam in 2003 and 2005 encountered clear evidence to validate Juzjani's account of a major flood, but scant evidence to suggest large-scale destruction wrought by invaders. This may reflect the fact that our limited excavations have thus far concentrated on the lower areas close to the river, and the destructive effects of looting have further complicated the evidence.

Juzjani, who apparently lived at Firuzkuh while a young man, supplies descriptions of other aspects of the Ghurid town. Despite the remote location, the city and its court were clearly very rich, cosmopolitan, and artistic: in the time of Ghiyath ad-Din, Firuzkuh was home to many scholars of law and religion, philosophers, orators and poets.[5] Juzjani also writes of huge quantities of gold in Firuzkuh, the great fort of Baz Kushk-i-Sultan being decorated with gold-inlaid pinnacles and two huge golden birds, while the portico of the congregational mosque was ornamented with a ring, chains and drums of gold. Golden vessels and money were, according to Juzjani, distributed among the population by the Sultan until the whole city was filled with wealth.[6] Although these accounts are doubtless wildly exaggerated, they appear to be well known, and we should not underestimate the incentive that such tales can provide for illicit digging in modern times.

[3] Juzjani tr. 1881: 404.
[4] *Ibid.* 1006–1007, 1055–1057.
[5] *Ibid.* 1881: 384.
[6] *Ibid.* 1881: 403–406.

The Minaret of Jam

The archaeological site of Jam is located at the confluence of the Hari Rud and Jam Rud, about 215 km to the east of Herat, in Ghur province of central Afghanistan.[7] The Minaret, forgotten by the outside world, was 're-discovered' during a survey of the Afghan Boundary Commission in 1886. It was the focus of a French mission[8] in 1957, and several other small-scale studies and surveys.[9] Few other scholars have had the opportunity of visiting, let alone working at the site, due to its remote location and the turmoil of the past few decades. In recent years, the Minaret has started leaning. Consequently, Mr. Andrea Bruno has headed an architectural study of the structural stability of the monument, and a conservation plan is being implemented to consolidate and protect it. In 2002, UNESCO[10] recognized the international significance of Jam and its archaeological remains by designating the site as Afghanistan's first World Heritage Site. In many ways, however, the surrounding subterranean archaeology and cultural heritage is at greater risk of destruction than the Minaret itself, following extensive illicit digging for antiquities in recent years.

The Minaret of Jam Archaeological Project (MJAP)

The Minaret of Jam Archaeological Project was initiated by the Istituto Italiano per l'Africa e l'Oriente (IsIAO), on behalf of UNESCO and the National Afghan Institute of Archaeology (NAIA); a short preliminary season of archaeological fieldwork was undertaken in August 2003.[11] A second season of work, in what was initially conceived as a three-season project, was planned for 2004, but had to be postponed at the last minute due to security concerns. The second season of work consequently took place in August 2005 under the direction of David Thomas, this time as an independent project.

[7] Ball 1982.
[8] Maricq & Wiet 1959.
[9] Most notably by Le Berre in 1960, published by Sourdel-Thomine in 2004, and Herberg 1976.
[10] See for UNESCO's involvement Manhart in this Volume, chapter 3.
[11] Thomas *et al.* 2004, 2005.

The multi-disciplinary team in 2005 included scholars from the UK, Austria and Italy, working in conjunction with our colleagues in NAIA, and with UNESCO's approval.

A major aim of the project has been to investigate the looting of the site, in terms of the damage already done, the current state of preservation of what remains and the formulation of strategies of site management for the future. The accounts of visitors, and comparison of recent aerial photographs with those published by the French in 1959, suggested that looting had been extensive, particularly during the Mujahideen and Taliban years, and this indeed proved to be the case. Unsubstantiated accounts of looting at Jam gathered during conversations with local people indicate widespread illicit digging, organized by external networks of dealers, in the mid-1990s and into the early 2000s. Our informants were adamant that this large-scale destruction has now ended, although the absence of regular archaeological investigation and monitoring at Jam has thus far made this impossible to verify. Proposed infrastructure and construction works, including plans to build a much-needed road and bridge close to the Minaret, also pose significant threats to the little-studied archaeology of the Jam area. An archaeological impact assessment of the proposed route of the road was therefore undertaken in 2003, and some preparatory work on the road has begun.

Survey of the Robber Holes

Most of the valley slopes around the Minaret are pockmarked with robber holes, up to several metres wide and deep (Plate 24). Even remote and difficult-to-access areas of the site, such as the mountain peak of Koh-e Khara and the fort of Qasr Zarafshan, have been subject to looting. In an attempt to glean as much information as possible from the existing robber holes, and to limit our own impact on the archaeological remains, work in 2003 concentrated on a precipitous slope opposite the Minaret, along the route of the proposed road and bridge on the west bank of the Jam Rud. We investigated ten robber holes, exposing fragmentary architectural remains consisting of stone and mud-brick walls and plastered surfaces. All too predictably, given the thorough looting, we found little else, other than numerous fragments of fine, painted wall plaster, and a range of ceramics including glazed incised wares (see below). We also recovered shards of glass and a couple of small coins, the

better preserved of which is Seljuk in origin and has been dated to the early twelfth century.[12] Although limited, these finds indicate the import of luxury items, a relatively high standard of living and concern for aesthetics amongst the twelfth-century inhabitants of Jam, thus giving some substance to Juzjani's accounts of the city.

The looting of antiquities from Jam and surrounding archaeological sites has been severe, and the damage done is evident even from a distance (Plate 24). As long as the number and location of the robber holes remains unspecified, it is very difficult for NAIA and UNESCO to monitor the situation and develop a cultural heritage management plan for the site. One of the principal aims of the 2005 season, therefore, was to try to quantify the number of existing robber holes, to map their locations and to gather what information was preserved in them. To this end, we attempted to use modern technology to assist NAIA and UNESCO in this process.

The availability of high-resolution satellite images, in which each pixel represents 60 cm on the ground, and Global Positioning Systems (GPS), seemed to offer one quick way of tackling this problem. A generous grant from the British Embassy in Kabul enabled us to buy two satellite images, and to devote some of our time at Jam to investigating this problem. We soon found that we were testing the limits of the technology, as well as our stamina and balance on the precarious, steep slopes. It is testimony to the dedication (and surefootedness) of the team that we were able to complete this difficult task without injury.

We selected the north bank of the Hari Rud (NBHR) as the focus for our 2005 pilot study, as it has been particularly badly affected by the looting. The first stage of the study was to survey and record each robber hole we encountered while scrambling across the valley side. We did this in teams of two, measuring the maximum length, breadth and depth of each robber hole, before drawing a sketch plan, describing any visible architecture and counting ceramic sherds in sample one-metre squares, in the robber hole and on the spoil heap downslope. We also collected unusual diagnostic sherds and objects for further analysis. By the end of the first day, it had become clear that it would be impractical to attempt to survey the whole of the NBHR, due to the limited time and resources

[12] Thomas *et al.* 2004: 117–118.

available. Consequently, we decided to concentrate on a 50 m-wide strip at the western end of the slope, stretching 225 m from the Hari Rud up to Qasr Zarafshan. From this intensive sample, we could extrapolate estimates for the number of robber holes on the rest of the hill slope.

By the end of the season, we had recorded 121 robber holes in this 50 m-wide strip, amounting to a robbed area of 1,245 msq. This represents 11% of the area investigated—by way of comparison, a normal archaeological excavation at a Tepe site would generally excavate only 1–2% of a site in the course of many seasons. By multiplying the area of each robber hole by its maximum depth, and dividing by half (to take account of the slope), we estimate that the robbers have removed a minimum of 1,310 cubic metres of deposits from this small area. Although the robber holes are not regular, and our calculations use maximum dimensions, we believe that this is a realistic figure, and probably an underestimation. Most of the robber holes are much deeper than they currently seem, and the large spoil heaps down slope from the robber holes probably conceal other illicit excavations.

About 69% of the robber holes investigated contain definite or possible architecture. In addition, we counted 386 sherds in the sample one-metre squares in the robber holes and 485 sherds in the sample one-metre squares on the spoil heaps. Since the NBHR is circa 150 m long, we estimate that there are about 360 robber holes across the whole hillside—this is the scale of the damage that the looting of antiquities has done to the archaeological remains at Jam on one slope alone.

Use of Satellite Images and Digital Photographs

The next stage of our analysis is to take the surveyed plan of the robber holes, and to attempt to correlate it with the satellite image and digital photographs (Plate 25a). We aim to investigate whether it is possible to use high-resolution remote sensing techniques to identify the robber holes from space, and potentially to chart the history of the robbing by comparing old satellite or aerial photographs with the 2003 one. The other reason for doing this is to see whether it might be possible to use future satellite images as a way of monitoring illicit excavations at Jam and other archaeological sites.

This is a far from simple process. Although the satellite image we have is visually impressive, our colleague Dr Kevin White, who is a specialist in remote sensing, has pointed out that the curve of the earth, the mountainous terrain and the perspective from which the image was taken have resulted in significant distortion. Consequently, we spent a day 'ground-truthing' the photograph—scrambling across the scree slopes and valley sides, taking GPS readings at easily recognizable geological points on the satellite image, in order to use a computer programme to correct the distortion. The extent of the inaccuracy becomes clear when a rectified version is produced by these means (Plate 25b). This is very much work in progress—our gut-feeling is that our 'field-walking' survey of the NBHR has found many more robber holes than are visible on the satellite image or digital photographs, but knowing where these robber holes are might help us to identify otherwise anomalous marks in the images. As ever, a combination of approaches is probably the best way to tackle the problem of recording the robber holes.

Robber Hole 201

A final point should be made, to redress the rather demoralizing effect of surveying the robber holes. Although they are hugely detrimental, the robber holes do offer us archaeological windows into the subterranean characteristics of the site. Most of the robber holes are uninteresting, but occasionally one, such as Robber Hole 201 for example, is fascinating. RH201 exposed a complete Ghurid room, measuring 3.8 × >2.6 m. The walls of the room are made of stone, covered with two layers of coarse plaster and multiple applications of a fine white plaster finish. The imprints of the bricks on the ceiling and traces of the vaulting at the top of the northern and eastern walls yielded unprecedented information about the Ghurids' domestic roofing techniques, while in the western wall, we uncovered a window ledge over 1.0 m long and 0.75 m deep. Even more productive was the lump of earth remaining attached in the north-east corner of the room. We carefully excavated these deposits, which the robbers had ignored, and uncovered an elegant, domed lamp alcove, measuring 45 cm in height; amazingly, the alcove still contained its small, green-glazed, ceramic lamp, coated in sooty residues.

In the hope of finding more *in situ* deposits and the room's floor, we started to excavate the robber's spoil from the area. Unfortunately,

after a depth of 2.6 m (from the ceiling), the sides of the slit trench proved to be too unstable and we had to abandon this project. The excavations did, however, reveal a central, plastered pillar, which must have helped to support the baked-brick roof. Needless to say, we hope to return to this robber hole in the future and to excavate it fully.

Ceramics from the Robber Holes

'Bamiyan sgraffiato'

A brief glance at the many web sites advertising antiquities for sale reveals a huge quantity of Islamic ceramics from Afghanistan. Perhaps the most common product on offer is the so-called 'Bamiyan splashed sgraffiato' ware, usually in the form of large bowls. The sheer number of these vessels, many of which are in suspiciously good condition, has led various experts to the conclusion that a significant proportion might be of recent manufacture.[13] Intact ceramics, however, were among the list of items often found and sold by looters according to our local informants. The ubiquitousness of this distinctive ware in the ceramic corpus recorded by MJAP in 2005 ('Bamiyan sgraffiato' comprised 37% of all drawn glazed sherds) would seem to confirm the possibility that at least some of those vessels on sale do come from the plundering of sites such as Jam. Collectors of Islamic art should therefore clearly avoid such material: their expensive purchases are likely to be either fake or looted.

Given the high profile of 'Bamiyan sgraffiato' bowls in the market place, it is striking how little is known about this type of pottery. The label 'Bamiyan' was attached to the ware only because examples were first recorded at the site of Bamiyan.[14] No work has been undertaken on the fabrics and their place of manufacture is as yet undetermined, although the clay is distinctly different from the locally made wares found at Jam, indicating an origin outside the area. MJAP has kindly been permitted to export specimen sherds by NAIA, and we are in the process of preparing samples for thin-sectioning and ICP analysis in order to clarify issues of geological ori-

[13] Watson 2004: 268.
[14] Gardin 1957.

gin. In addition to sherds of 'Bamiyan sgraffiato', MJAP has exported fragments of handmade and wheelmade vessels of local manufacture, pieces from elaborately moulded vessels, glazed 'fritwares' and other glazed sherds including broken tiles, one of which had fallen from the Minaret itself. Although there is as yet no comparative data from Afghanistan, our results will be examined in conjunction with those from similar work on sherds from sites in the North West Frontier Province, Pakistan, and Iran, the analysis of which has been undertaken by our colleague Dr Cameron Petrie, in the University of Cambridge. By these means, it is hoped to shed some light on the origins of ceramic wares imported from elsewhere in the region, and thus on Jam's trading connections. It is unfortunate, though, that so much archaeological evidence has been lost before even the most basic scientific investigation is carried out.

Other Imported Glazed Ware

'Bamiyan sgraffiato' ware must have been one of the most standard table wares in use by the Ghurid population of Jam. However, the site also yielded sherds of other imported glazed wares, in particular the high status Minai and lustrewares. Minai ware, decorated with delicate patterns in coloured enamel, was manufactured apparently only for about forty years, going out of production around 1220;[15] three Minai sherds were identified during the 2005 season, two of which were decorated with gold leaf. Lustreware was more common, as were turquoise-glazed moulded 'fritwares'. The presence of these sherds indicates a considerable volume of trade between Jam and the ceramic production centres of Iran, where the manufacture of such products was probably based. Again, it is hoped that the programme of thin-sectioning will locate the origin of these wares with greater accuracy than is currently possible. A single sherd of imported Chinese celadon indicates that trading links from Jam spread eastward as well as to the west.

Although statistical analyses of excavated ceramic material have not yet been undertaken at Jam, the proportion of high status glazed wares collected is apparently greater than might be expected even from a dynastic capital. As a comparison, archaeological work on

[15] Watson 2004: 363.

Islamic levels in Old Cairo, carried out since 1998 under the auspices of the American Research Center in Egypt and directed by Peter Sheehan, has uncovered a huge quantity of ceramic material; among this are only two pieces of lustreware (of Egyptian, not Iranian manufacture) and a single piece of Chinese porcelain. The situation at Jam might perhaps be explained by the nature of the settlement as a royal court city in an otherwise sparsely populated area: while archaeological deposits in Old Cairo contain the ceramic debris of rich and poor alike, the court connections of much of the population of mediaeval Jam, and their associated wealth, may have created a more universal demand for expensive imports. It is also possible that the booty from campaigns by the Ghurids included high status ceramics. Either way, the wealth of the population is reflected even in those fragments of the ceramic corpus that have survived the looting.

Educational Booklets and Development Aid

Our investigation of robber holes at Jam has clearly demonstrated the size of the problem of illicit excavation. Although large-scale looting has apparently stopped, some sections of the local population remain ambivalent to the historical significance of the site, and indeed are concerned that the archaeology may act as an obstacle to the development of their infrastructure and economy. Consequently, we feel that it is vital for our project to include programmes for local education and development aid. The Lonely Planet Foundation is funding these two aspects of our work—the research, writing and preparation for publication of multi-lingual educational booklets about Jam and the Ghurids, and an assessment of the needs of the present-day inhabitants of Jam.

MJAP is primarily an archaeological project, so there is a limit to what we can do on these fronts. Nevertheless, we hope that these aspects of our project, in combination with our continued fieldwork in the area, will convince the locals that the archaeological remains are an important part of their heritage, and a long-term source of employment, rather than something to be plundered in the short-term. It would be naïve to think that the looting will stop totally as a result of our brief visits, but we hope that it will at least be curtailed and that building good relations with the local militia commanders will cement this process.

Concluding Comments

Jam is effectively a single-period site, and therefore offers scholars of mediaeval Islamic cultures unparalleled opportunities for ground-breaking studies. The Minaret, however, is merely one part of the unique archaeology of Afghanistan's first World Heritage Site; the other archaeological remains are equally worthy of study. We will generate a one-sided and impoverished understanding of ancient Firuzkuh and the Ghurids if we do not attempt to examine the Minaret in the wider context of the whole Ghurid city, its environment and archaeological hinterland—we hope to continue this work in future seasons, if funding applications are successful.

We must also work towards making our research relevant and accessible to Afghans, as well as overseas academics—we are attempting to do this by translating our reports into Dari, and publishing multi-lingual booklets on Jam and the Ghurids, for adults and children. Little progress will be made combating the looting of antiquities if we overlook the considerable difficulties that the present-day population of Jam faces, eking out an existence in this remote region of Afghanistan—hence our attempts to incorporate development aid assessments and small-scale initiatives within the wider project. It is also vital that collectors of antiquities in the West recognize the huge damage that has been done by illicit excavations and that they refrain from fuelling this devastation of Afghanistan's cultural heritage by shunning objects of dubious provenance.

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References

Ball, W. 1982 *Archaeological Gazetteer of Afghanistan* 1, Paris.
Gardin, J. C. 1957 'Poteries de Bamiyan', *Ars Orientalis* 2, 227–45.
Herberg, W. 1976 'Topographische Feldarbeiten in Ghor. Bericht über Forschungsarbeiten zum Problem Jam-Ferozkoh', *Afghanistan Journal* 3, 2, 57–69.
Juzjani 1881 'Uthman ibn Siraj al-Din. *Tabakat-i-Nasiri. A General History of the Muhammadan Dynasties of Asia, including Hindustan, from A.H. 194 [810 A.D.], to A.H. 658 [1260 A.D.], and the Irruption of the Infidel Mughals into Islam*, translated by H. G. Raverty, London.
Maricq, A. & G. Wiet 1959 *Le Minaret de Djam. La Découverte de la Capitale des Sultans Ghorides (XII^{e}–XIII^{e} siècles)*, Paris.
Sourdel-Thomine, J. 2004 *Le Minaret Ghouride de Jam. Un chef d'oeuvre du XII^{e} siècle.* Mémoires de l'Académie des Inscriptions et Belles Lettres 29, Paris.
Thomas, D. C., G. Pastori & I. Cucco 2004 'Excavations at Jam, Afghanistan', *East and West* 54, 87–119.
—— 2005 'The Minaret of Jam Archaeological Project (MJAP)', *Antiquity* On-line Project Gallery, March 2005 (available on http://antiquity.ac.uk/ProjGall/thomas/index.html).
Vercellin, G. 1976 'The Identification of Firuzkuh. A Conclusive Proof', *East and West*, 26, 337–40.
Watson, O. 2004 *Ceramics from Islamic Lands*, London.

CHAPTER ELEVEN

RECOVERY AND RESTORATION: TWO PROJECTS IN KABUL

Jolyon Leslie

As in other places, architecture has long served as an instrument of self-assertion of the ruling classes in Afghanistan. From the emperor Babur to Zaher Shah, successive rulers have left their mark on the urban environment. In the case of Gawhar Shad in Herat, the mausoleum within the madrasa complex that she commissioned during her life is as an embodiment of both piety and worldliness, given the richness of the architectural decoration that she chose. Later, Amanullah drew on the style of Western secular buildings to try to embody his vision for the new administrative quarter of Darulaman, south of for Kabul, as part of his efforts to modernize the Afghan state.

When assessing the immensity of the loss of cultural heritage that has occurred during the course of the long conflict, the neglect and destruction of these powerful architectural statements as an integral part of the historic landscapes is often overlooked. This chapter describes the importance of two such war-damaged sites, a garden and a mausoleum in Kabul, and outlines the strategy adopted during their conservation by the Historic Cities Support Programme (HCSP) of the Aga Khan Trust for Culture.

The Historic Cities Support Programme, established by the Aga Khan Trust for Culture in 1992, has implemented a range of integrated conservation and urban development projects in places such as the Karakoram valleys of the Northern Pakistan, Zanzibar, Cairo, Samarkand, Mostar and Aleppo. In these projects, conservation of individual monuments is combined with planning, landscaping, upgrading of housing and infrastructure, adaptive re-use and social development initiatives which contribute to improvements in living conditions within historic neighbourhoods. During the course of each project, local skills are enhanced, employment generated and the capacity of institutions strengthened.

The Restoration of Baghe Babur

Baghe Babur was laid out in the early 16th century by Zahiruddin Muhammad Babur Padshah Ghazi, the founder of the Mughal dynasty. Babur came to the throne of the small principality of Fergana, in present day Uzbekistan, when he was only twelve, in 1494. Descended from Tamerlane on his father's side and the Mongol Ghenghis Khan through his mother, Babur set his sights on extending his rule and captured Kabul in 1504, before going on to invade India in 1526.

History and Environment

Babur's memoirs provide an insight into the life of the founder of a dynasty that was to dominate the politics and culture of the region for 300 years. The memoirs indicate the extent to which the natural landscape was central to the life of his court, and how the business of ruling was conducted in gardens that he visited or established on his travels. The Timurid gardens that Babur visited in Herat in 1507 clearly had an impression on him, and might have influenced how he laid out the sites that he developed in and around Kabul in the early 16th century. As had been the tradition in the Timurid court, Babur used these gardens to launch military campaigns and celebrate victories, hold royal audiences, dispense punishments, read poetry and entertain.

Such was the importance of this site, on the southern slopes of the Kohe Sher hills, with commanding views across a fertile plain that would have served as a hunting ground for Babur's court, that he asked also to be laid to rest here. Even after his body was moved from Agra and buried in Kabul in around 1540, the site continued to be important to his successors. The grave of his son Hindal is beside that of his father. Babur's grandson Akbar visited the garden, as did his great grandson Jahangir, who commissioned a platform to be erected around the grave. In 1638, Shah Jahan dedicated a marble mosque during a visit, when he also ordered the construction of a gate and perimeter walls. The garden seems to have largely fallen into disrepair by the late 17th century, as Kabul's political and economic importance in the region waned. By the time Charles Masson visited the site in 1832, he reported that

> the tombs, for the truth must be told, are the objects of least attention in these degenerate days. No person superintends them, and great liberty has been taken with the stones employed in the enclosing walls . . .[1]

The perimeter walls around the garden were reportedly damaged during the major earthquake of 1842. John Burke's photographs of 1872 show fragments of the various grave enclosures scattered over the upper terraces, along with signs of attempted repairs of the roof of the mosque.

As part of his programme of improvements in Kabul, Amir Abdur Rahman Khan (1880–1901) re-built the perimeter walls and constructed a number of buildings, including a garden pavilion and a haremserai, in Baghe Babur. Further changes were made in the 1930s during the reign of Nadir Shah, who introduced a more European style of landscaping, including fountains in elaborate stone pools down the central axis.

Along with the rest of southern Kabul, Baghe Babur suffered wholesale destruction during the inter-factional fighting that raged through Kabul from 1992. Given its strategic location, trees were cut down to reduce cover, the buildings were stripped and torched, and the water pumps looted. It was not until 1995 that it was possible to start clearing the landmines that had been laid, and resume water supplies, by which time all of the mature trees had died. In March 2002, the Aga Khan Trust for Culture signed an agreement with the transitional Afghan administration to support a programme of works aimed at restoring the original character of the landscape and conserving key buildings, while ensuring that the site, which is the largest public enclosed green space in the city, should continue to be a focus for recreation for Kabulis (Plate 29a).

The Conservation Approach for Historic Buildings

Baghe Babur currently comprises a walled area of some 26 acres (12 hectares), within which the principal historic structures are graves, a 16th century marble mosque dedicated by Shah Jahan, a haremserai

[1] Masson, Ch. 1841 *Narrative of Various Journeys in Balochistan, Afghanistan, and the Panjab Including a Residence in Those Countries from 1826 to 1838*, London.

(Queen's Palace) and garden Pavilion that date from the late 19th or early 20th century, and the perimeter walls. Given direct damage that all structures had suffered, the initial focus of conservation work was on surveys, leading to initial stabilization and conservation.

Babur's grave area (Plate 28) had seen significant transformation through history. Soon after his burial, a marble enclosure was erected on a raised platform. The enclosure comprised marble lattice screens set between central arched doors, with a decorated parapet. A similar enclosure was subsequently erected by Shah Jahan around the grave of his grand aunt, Rubbaiya Sultana Begum, probably at the same time that he dedicated the mosque on the terrace below Babur's grave.

Although an important focus for his immediate successors, Babur's grave fell into disrepair with time. Accounts and drawings from 19th century visitors provide a useful record of the structure. In particular, Charles Masson's 1832 rendering of the south elevation, which was prepared with a camera lucida, has been invaluable in the ongoing restoration. By 1872, when John Burke took photographs of the area, fragments of the grave enclosures appear scattered over the landscape. Since 2002, nearly 30 marble pieces from Babur's enclosure have been found in the garden, and have helped to confirm the remarkable accuracy of Masson's drawing, on which basis a replica enclosure is being carved, and will be re-erected in situ in early 2006. Three marble fragments, bearing the distinctive panpatta motif along their edge, that could have come from the platform erected by Jahangir, have also been found. An outer brick enclosure wall that was built in the early 20th century has been reconstructed in order to protect this important area from the increasing numbers of visitors. In the course of this work, care has been taken not to disturb any of the graves or other underground structures.

The white marble mosque dedicated by Shah Jahan during his visit to the site in 1638 is arguably the most important surviving Islamic monument in Kabul (Plate 29b). While attempts were made during the nineteenth and twentieth centuries to repair the roof, it was not until 1964 that the Italian Archaeological Mission began a comprehensive programme of re-building what by then seems to have been a virtual ruin. The surviving marble elements were re-assembled over a new reinforced concrete and conglomerate brick and stone structure. The subsequent lack of maintenance and war-related damage caused

reinforcing steel within the new structure to corrode, and salts from the concrete to accumulate on the marble surface of the mosque.

The first stage of conservation of the mosque in 2002 focused on replacement of the reinforced concrete roof with traditional lime concrete, the replacement of cracked marble structural elements and the re-building of the parapet, partly using elements from the original Shah Jahani marble, which were found on the site. The mihrab wall was re-faced with marble following a pattern derived from historic photos and the dimensions of elements re-used in paving around the mosque. Superficial war-related damage to the marble facings of the mosque has not been repaired.

The garden pavilion was built in the late 19th century as a place for royal entertainment. Used briefly as a residence by an English physician to the court, the pavilion subsequently underwent a range of transformations. Along with other buildings, it was looted and burned after 1992. Initial repairs had been carried out by others from 1995 onwards, and these have been completed by AKTC, so that the Pavilion can again now be used for official functions.

Although Babur seems to have regularly camped in this and other gardens with his court, the haremserai, or Queen's Palace, complex built by Amir Abdur Rahman Khan, was the first permanent residential structure on the site. Built in a European style around a courtyard, the complex provided secluded quarters for the Amir's family. Over time, other structures were built to link the haremserai to the mosque and adjacent hammam, but most of these were subsequently demolished by Nadir Shah. The haremserai complex itself was briefly used as the a residence for the German legation in Kabul during the First World War, after which it was used by successive administrations as a school, and government accommodation. By the 1990s, it was being used as a military barracks and depot, and therefore was a target for the factional fighters who looted and burned the complex. In 2002, work started on removing unexploded ordnance and mines from the ruins, after which the surviving parts of the structure were stabilized and physical surveys conducted. Work continues on phased reconstruction of the complex, while options for its possible re-use are explored.

Photographs of the garden from the 1940s show a double-storey caravanserai complex at the base of the garden. Footings of a variety of buildings were discovered during archaeological excavations

in this area in 2004/2005. The most important find in this area was a large stone platform aligned with the central axis of the garden, which is thought to belong to the gateway that Shah Jahan ordered to be built. In order to house the range of public facilities required for the site, work has started on the construction of a new complex, the design of which draws on the architectural vocabulary of caravanserais in the region, and incorporates a reconstructed gateway footing, through which visitors will now enter the garden.

The return of families to their war-damaged homes on the hillsides above the garden continues to transform the surrounding environment, where there are currently few controls on physical development. Work continues with these communities, from which the bulk of the labour-force for the garden rehabilitation is drawn, to improve living conditions, including upgrading of drainage, access and water supplies. These investments represent the first stage of the joint formulation, in close collaboration with the relevant authorities and community representatives, of an Area Action Plan to guide appropriate development in the district.

Restoring the Character of the Historic Landscape

Although it is not clear how Babur might have defined the extent of his garden, the perimeter walls that now surround the site are part of the Persian tradition of enclosure. By 2002, many sections of the massive earth, or pakhsa, walls (that are thought to date from the turn of the century) were close to collapse. Given the need to secure the site, the re-building of the perimeter walls was one of the first priorities in the spring of 2002, at a time when many of those resettling in the neighbourhood needed work. More than 1.3 kilometres of walling, sections of which are 8 metres high, have been re-built or repaired, generating more than 80,000 work/days of skilled and unskilled labour (Plate 27).

In order to better understand the history of the landscape, four seasons of archaeological excavations have been undertaken since 2002 in the garden by the German Archaeological Institute, in collaboration with the Afghan Institute of Archaeology. In the area of Babur's grave, excavations confirmed the size of the enclosure and identified a number of other historic graves. Below the mihrab wall of the mosque, marble-edged water channels and pools were uncovered, confirming the layout seen in photographs from the late 19th

century. On the terrace below the Pavilion, a brick-lined octagonal pool, dating from the Mughal era, was found. The removal of 20th century pool and fountains down the central axis enabled the team to gather information on earlier water distribution systems, including those from Mughal times. This information has been invaluable in developing an approach for the restoration of this important element, which forms the spine of the garden and which—doubtless by design—is oriented towards Mecca.

The ongoing restoration of the historic landscape has tried to restore the sense of a progressive discovery of the site, from below. It is intended that all visitors should enter through a new gate that gives on to the courtyard of the caravanserai complex, through the base of the Shah Jahani gateway to a paved area, from where it will be possible to take in the full extent of the 10 lower terraces, rising up the hillside. The re-grading of these terraces has to date required some 20,000 cubic metres of topsoil to be moved or brought into the garden.

Visitors will be able to proceed up short flights of stone stairs, along pathways on either side of the central axis, in the centre of which water will flow down through a sequence of channels, waterfalls and pools. This central watercourse will be flanked by an avenue of plane trees, directing views up the spine of the garden towards the Pavilion, and restoring the sense of deep shade that is believed to have originally characterized this part of the landscape. Each terrace level along the central axis will be planted with pomegranates and roses between areas of paving around the water pools. From each level, there will be both views and direct access to the lateral terraces, on which more than 3,000 trees have been planted as part of efforts to restore an orchard-like character. Babur's memoirs provide an invaluable source of information on the trees that he had planted in his various gardens, and provide the inspiration for the use of pomegranates, apricots, apples and peaches, between which are small grassy meadows, closest to the central axis. Further along the terraces, there is a denser planting of mulberries, apricots, figs and almonds, while the extremities have been planted with copses of walnuts, adjacent to the perimeter walls.

While the central water-course would originally have been the means by which the entire garden was irrigated, the need to reduce evaporative losses has required the installation of a system of underground pipes, fed by gravity from the upper reservoir to small stone

holding tanks which regulate the flow of water into traditional open channels to the orchards on each terrace.

Proceeding up the central axis to the garden Pavilion, the visitor will arrive at an octagonal pool of water of the same dimensions as a Mughal tank discovered at this level. From here, it will be possible to look down the central avenue and across the plain of southern Kabul towards the snow-capped Paghman mountains, just as Babur must himself have done. A swimming-pool that had been built in the 1970s within the garden boundaries, immediately to the north of the Pavilion, has been removed, and a new facility built outside of the garden enclosure, to meet contemporary needs for public recreation.

The original change in levels across the terrace containing Babur's grave has been restored, and the platform is now approached up stairs leading from a formal plantation of flowering cherries. Inside Babur's outer grave enclosure, and beside other graves on the terrace above, Judas trees have been planted, while plane trees will provide shade outside of the enclosure itself, and along the terrace above.

Sustaining the Rehabilitation Process

Conceived of as royal property, the fortunes of Baghe Babur until the mid-20th century depended on investments made by Afghanistan's rulers. After the end of the era of royal patronage, when the site became a public park, its gradual degradation bears out the difficulties faced with respect to lacking resources from municipal funds. While entry charges have continued to be levied by the municipality for the garden and the public swimming pool, this revenue barely covers the paltry wages of staff assigned to maintain the landscape, let alone costs of repairs. It is in this context that efforts are being made to ensure that facilities in the garden might in time generate revenue to meet a greater proportion of the maintenance and operational costs of Baghe Babur.[2]

[2] Particularly the 'Queen's Palace', to be re-used as a forum for cultural and social events.

The Mausoleum of Timur Shah and the Surrounding Area Development

The second project undertaken by HCSP concerns one of the largest surviving Islamic monuments in central Kabul, the mausoleum of Timur Shah. Situated between the riverfront and traditional markets, it is an impressive example of brick funerary architecture, with significance for the history of the modern Afghan State and the development of its capital (Plates 30a and 30b).

Timur Shah was the second son of Ahmad Shah Durrani of the Sadozai tribe, who united the territory that is now known as Afghanistan, after being elected in 1747 by an assembly of Pashtun chiefs to be their leader. Originally a general in the service of the Persian ruler Nader Shah Afshar, Ahmad Shah consolidated his rule over the turbulent new state of Afghanistan before his death in 1772. His son Timur Shah was born in 1746, probably in Herat, where he served as governor before succeeding to the Durrani throne. Having faced off a military challenge from his elder brother, who had been by-passed in the succession, Timur Shah moved his capital from the southern city of Kandahar to Kabul, which lay at the centre of his domain and was the crossroads of Pashtun and Persian languages and culture. Timur's reign was characterized by continuing turbulence, and he died in 1793. His fifth son Zaman Shah, who had served as governor of Kabul, chose not to bury his father in the traditional graveyards that adjoined the walled city of Kabul, but in 1817 started work on a brick mausoleum in the centre of a *chaharbagh* or urban garden on the southern bank of the Kabul river. Progress on the construction of the mausoleum was fitful, due to continuing rivalries between the male line of the family, and by 1839, the British traveller James Atkinson wrote that

> The tomb of Tymmoor Shah . . . is still unfinished; it is a mere shell, built of burnt brick unplastered, and without minarets or embellishment of any kind, but larger than the tomb of Ahmed Shah at Candahar, being about a hundred feet high, and the diameter of the foundation the same number of feet. The walls and cupola bear innumerable marks of canon-balls and shot, produced in the several insurrections that have occurred at Caubul since it was erected. . . . . Lazy fakeers and beggars were lying here and there asleep, and tattered clothes hanging out to dry on one of the terraces.[3]

[3] Atkinson, J. 1842 *The Expedition into Afghanistan*, London: 274.

The transfer of the court from Kandahar to Kabul meant that space had to be found for royal functions within the citadel and adjacent walled enclosures that together defined the extent of the city proper. As a result of the new political role of Kabul, and the growth in population, the city spread to the gardens, such as Bagh Ali Mardan, that had since Mughal times formed its northern limit. In time, garden estates were also established along the banks of the Kabul River by wealthy families who had previously lived within the walled cantonment below the citadel. The decision in the middle of the 19th century to re-locate the Arq, or royal quarters, to the north of the river meant that gardens such as Baghe Ummumi (or Public Garden, which lay adjacent to the bridge that still bears its name) were soon built over or incorporated into the extensive palace compound. So too, the chaharbagh in which the mausoleum of Timur Shah stood was gradually developed and by the reign of Habibullah Khan (1901–1919) a range of neo-classical buildings was constructed between the mausoleum and the river.

The area was further transformed by the introduction during the 1940s of the commercial boulevard of Jade Maiwand, which cut a formal east-west axis through the traditional fabric of housing and bazaars. Behind the formal facades of the new thoroughfare, the historic network of alleys and bazaars survived, and can still be seen in the traditional markets along Mandawi. Haphazard commercial development continued in this area and, by the 1970s, all that remained of the chaharbagh around Timur Shah's mausoleum was a small municipal park. During the war, it was heavily damaged and later encroached upon by informal traders, with the effect that a major public open space in the city-centre was lost.

The Tradition of Afghan Funerary Architecture

Mausoleums for spiritual and military/political leaders are an important part of the architectural heritage of the region, and in many cases were the largest and most permanent structures within settlements at the time. Such buildings are not only embodiments of respect for power or piety, but also strived to demonstrate the cultural achievements of those who commissioned them, through the use of the best of contemporary craftsmen. In commissioning a mausoleum in memory of his father, Zaman Shah was able to draw on a rich tradition of mausoleums. Among these is the eleventh cen-

tury brick-domed mausoleum in Ghazni erected for Sultan Mahmood in one of his favourite gardens in the city that was his capital. The mausoleum of Gawhar Shad in Herat was incorporated into the madrasa complex that she dedicated in 1447. The square-plan structure has many of the typical elements of Timurid funerary architecture, including superimposed brick domes, the bottom of which has elaborate painted stucco decoration, and the uppermost ribs of glazed tiles raised on a tall drum which bore tiled calligraphic decoration, ensuring the visibility of the complex.

A more direct architectural comparison might be made between Timur Shah's mausoleum and that he built for his own father Ahmad Shah Durrani in Kandahar. Both are similar in plan, but the elaborate internal stucco and painted decoration on Ahmad Shah's mausoleum gives some idea of the possible intentions of Zaman Shah for the monument in honour of his own father. Further stylistic similarities exist in the mausoleum that Nadir Shah built in the early 20th century over the grave near Kandahar of Mirwais Hotak. The style of the facing brick elevations and the decorated parapets suggest that Nadir Shah might also have made alterations to Timur Shah's mausoleum during his reign.

The mausoleum of Timur Shah comprises an octagonal structure with two intersecting cross-axes, and is organized on seven distinct levels. The underground crypt of the mausoleum contains the graves of Timur Shah and members of his family. At the centre of the ground floor is a square central space, surrounded by structure of brick masonry, whose external plan is octagonal. This structure has four deep double-height iwans on both the inside and outside of the main elevations and a series of smaller niches in the secondary facades, with eight rooms and four staircases set in to the corners of the massive brick masonry. Narrow brick stairs lead up from the four secondary external niches to the first floor, where there is a series of sixteen brick-domed chambers, which were originally used for study or accomodation, encircling the central space. Three flights of stairs lead way up to a second floor, comprising a flat roof around the 16-sided drum supporting the domes. At the springing of the lower dome is an upper drum, circular on plan with solid metre-thick brick masonry, defining the space between the two domes. The upper brick dome rises from the top of the upper drum, where a number of horizontal timber ties were found within the brick masonry. This dome, that shows signs of extensive repair, springs from a base

that is five bricks deep, narrowing to two bricks at the apex. A timber structure had been erected over the upper dome, supporting a sheeted roof, which was in a poor state of repair.

Conservation of the Mausoleum

The first surveys of the mausoleum began in the spring of 2002, at the same time that work started on the clearance of significant amounts of accumulated waste within the monument itself, and some adjoining container-shops. Part of the upper brick dome had collapsed, due to war-related damage and resulting exposure to the elements. Rainwater had also penetrated parts of the masonry of the upper drum, where several trees had taken root. The flat roof around the lower drum was also in poor condition, with rainwater outlets blocked, causing damage to the masonry vaults below. Accumulation of earth and waste in and around the base of the building had contributed to rising damp from the poorly drained site.

One of the most urgent issues to be addressed in the conservation was repair of the upper brick dome, which was affecting the structural integrity of the building as a whole. Initial structural assessments in the autumn of 2002 confirmed that the damaged section of the dome could be re-built. Analysis of the surrounding masonry revealed skins of brick masonry in relatively weak lime mortar, which seemed to have been built in stages and was subsequently repaired in parts. In order to plan repairs, it was important to establish how the force from these skins was transmitted to the supporting drum, which had cracks in a number of places.

The removal of the damaged roof sheeting, timber structure and mud covering enabled the upper surface of the dome to be inspected and measured. The varying quality of the surviving brick masonry confirmed that the dome had not been built at one time, and that the masons probably had difficulty in closing it, as it weathered and deflected, distorting its geometry. In order to access the damaged masonry, a bamboo platform was erected between the apex of the lower dome and recesses in the inner face of the drum, used during the original construction. In order to maintain the stability of the undamaged brick masonry, two temporary belts were installed and tensioned around the outside of the drum. A reinforced concrete beam was then installed on the inside ledge of the drum, at a height of 15.5 metres above ground, and anchored into the brick masonry with 48 stainless steel anchors, tensioned to 20 tons.

Based on the structural and materials analysis, it was resolved to remove the unstable edges of the damaged section of the upper dome and part of the drum, and re-build these in a manner that as closely as possible matched the original. Bricks of the same size (20 × 20 × 3.5 cm) as the originals, fired to a relatively low temperature—in order to match the strength of the surviving masonry—were laid in lime mortar prepared with putty from local sources that had been slaked for 8 weeks. The geometry of the new section also needed to match the existing masonry, which comprised of 6 skins of brickwork at the springing, reducing to 2 at the apex. The repairs were further complicated by the fact that ring forces on which such structural membranes would normally rely for equilibrium could not be transferred between old and new brick masonry. Experienced masons from Herat and elsewhere were engaged to undertake the repairs, and were made familiar with the distorted geometry and unusual characteristics of the original masonry, in order to ensure a good match. The damaged sections of the masonry were closed just before Ramadan in 2003, after which the exposed dome was covered with tarpaulins to protect it during the approaching winter.

Given that the sheeting roof and supporting timber structure that had been removed from the dome were not part of the original design for the mausoleum, a range of alternatives were considered for the roof covering, which also needed to provide an appropriate profile for the exterior of the finished dome. Although the construction of a third masonry dome, as might have been originally intended, was considered, it was clear that this would have significantly increased the mass of the structure, making its performance in future earthquakes difficult to predict.

In order to determine an appropriate outer profile for the finished dome, a harmonic curve was identified to match the geometry and proportions of the structure below. This geometry formed the basis for the fabrication of composite timber elements as a supporting structure for the new 'shell' roof, from which horizontal forces would only be transmitted to the masonry at the top of the brick drum. A series of concrete upstands were constructed on the upper surface of the masonry dome in order to provide a base for positioning a total of 32 timber rafters supporting the shell roof. While the geometry of the timber rafters was clear, the process of fabrication was subject to a degree of trial and error, as the potential of locally available materials and fixings was explored. In the end, the rafters were built of planks of Russian pine laid at right angles, screwed and

glued, with attached timber webs. All rafters, the largest of which is some 10 metres long, were hoisted by hand to the top of the building, as no crane with adequate reach was available. Once correctly positioned and fixed in place, timber boarding was screwed in a circumferential pattern over the rafters, as a base for the fixing of galvanized sheeting. A batten seam system of sheeting, which is familiar to local craftsmen, formed the final weatherproof covering of the dome. The lower edge of the shell roof was extended below the base of the rafters to protect the masonry of the drum, while allowing ventilation around the entire lower edge of the roof.

In parallel with repairs to the main dome, accumulated soil was removed from the flat section of the roof around the drum. Following repairs to the damaged masonry, voids between the vaults were refilled with crushed bricks, stabilized with cement, before which a layer of lime concrete was laid, over which waterproof isolation was laid beneath traditional brick paving, laid to falls.

Although there were traces of fixings for frames in only a few openings, glazed doors and windows were designed, manufactured from hardwood and fitted to all openings in the mausoleum, and an electrical network was installed.

The Potential for Re-use of the Central Space of the Mausoleum

The fact that it is a funerary structure clearly limits the re-use potential of the restored mausoleum. During the last stage of the conservation works, the central space was the setting for a weekly series of lectures, aimed at exposing students to new ideas about architecture and urbanism. Once the surrounding internal spaces are fully fitted-out, the aboveground structure of the mausoleum could serve as an exhibition and meeting space for functions related to the ongoing planning for the old city of Kabul, and could also possibly house key municipal functions for the old city area. An important aspect of the options for re-use, however, remains the re-instatement of the municipal park, that is all that remains in the Master Plan of the chaharbagh in which Zaman Shah commissioned the mausoleum for his father.

The Urban Context of the Mausoleum

The mausoleum now stands in an environment that is unrecognizable from the chaharbagh in which it was originally built. The creation of the municipal park in this area dates from the 1960s, when the Habibia (now Ayesha Durrani) school was re-located, and part of its southern wing was demolished to create a riverfront green space between the mausoleum and the Kabul river. The area was landscaped, and a series of water pools constructed on axis down the centre of the site. In time, commercial pressure on land in this area meant that both Kabul Municipality and the Ministry of Haj and Awqaf (who own the land around the mausoleum) have entered into informal 'leases' with some 200 traders, giving them a *de facto* right to set up business from containers or stalls on what had been the municipal park.

From the very start of the conservation work, intensive consultations were held with the authorities and representatives of these traders to identify an appropriate solution to their illegal occupation of this important public space. The first stage was to negotiate the re-location of those container-shops that abutted the mausoleum and blocked the first stages of conservation works. Since then, a series of re-locations have been undertaken to enable subsequent works and, in each case, efforts have been made to identify viable alternative sites on which traders might re-locate their businesses. Surveys have also been conducted with the traders to assess the resources that might be available for more sustainable solutions for the cloth-sellers and tailors who operate from the site.

The challenge has been to balance the need for protection of historic monuments and open spaces with the need for livelihoods among the growing population of the city. This led to a proposal being made by AKTC for the development of commercial premises on two sides of the park, to form an enclosure around what would be reclaimed as a public green space. The development takes the form of vaulted arcades, inspired in part by the traditional covered bazaars, which would enable the pedestrian route that exists across the site to be retained. In the light of a presidential edict that specifically forbids building on public open spaces, an alternative scheme is now being developed for adjacent land belonging to the Ministry of Mines and Industries, currently being used as workshops. This site would seem to have the potential to house those traders who could afford

to re-locate into such premises, while generating revenue for the Ministry. Surveys of commercial premises in the area suggest that the cost of building such a scheme could quickly be recouped from the sale of leases in the new building. Moreover, such a development could serve as an example for public-private partnerships, tapping in to the demand for commercial premises, while providing a model for a more appropriate style of architecture on this sensitive location.

Upcoming Tasks

These two projects serve to demonstrate the potential for adopting a broad-based approach to conservation that goes well beyond the preservation of specific monuments, and tries to take into account the realities of the environment in which such structures now stand, and how urban inhabitants use and perceive them. This requires an understanding not only of the historical significance of such sites, but also of the current social and economic implications. In both cases, there is a need to think not only of how the built heritage can be safeguarded, but also how the inevitable growth that will take place around such sites can be effectively guided. The Trust is now cooperating closely with the Kabul Municipality with a view to creating institutional mechanisms, which can ensure proper operation and management of the restored historic sites, as well as protecting their surroundings from inappropriate development.

The cooperation with the Municipality and others is also a key issue in HCSP's attempts to preserve surviving residential neighbourhoods in the historic quarter of Kabul, while formulating appropriate planning strategies to guide the redevelopment of irretrievable portions of the war-damaged old city. The ongoing restoration of historic houses, mosques and shrines, along with the upgrading of infrastructure and public facilities in the neighbourhood of Asheqan wa Arefan serves as a useful example of how the historic fabric can be safeguarded in a manner that also responds to the contemporary needs and aspirations of the inhabitants. The sustained involvement of community representatives in all stages of the planning and rehabilitation process has not only helped to foster a sense of pride and ownership locally, but also demonstrated the importance of participatory approaches to municipal staff and civil servants with respon-

sibility for urban management and development. In a context where ambitious plans for wholesale urban redevelopment abound, it is hoped that HCSP's work in Asheqan wa Arefan might contribute to a better understanding of more appropriate, affordable alternatives.

PART THREE

LEGAL ASPECTS IN THE AFGHAN CONTEXT

CHAPTER TWELVE

THE PROTECTION OF CULTURAL MOVABLES FROM AFGHANISTAN: DEVELOPMENTS IN INTERNATIONAL MANAGEMENT

Lyndel V. Prott

Developments in Afghanistan from the time of the Russian occupation gave great concern to archaeologists and other cultural specialists. The question soon arose as to how the movable cultural items could be protected. Obviously the protection of the immovable cultural heritage was also a major concern. However, the protection of movables raises a number of different issues and this article will focus on efforts to preserve them.

There are several ways in which movables could possibly be protected.

Return

The first is to ensure, whether by legal instrument or force, the return of movables after they have been taken from the country afflicted by invasion, occupation or other use of force. If there were a clear and consistent policy, thoroughly implemented, this would lessen the temptation of those who find themselves in a country at a time when its own authorities are unable to physically prevent looting, to take what they want for commercial advantage. It would be a deterrent, but not a preventative. Furthermore, it would not deter those, like the American Army Lieutenant, Joe Meador who stole the Quedlinburg gospels from their safe-keeping place in Germany and kept them over 40 years for his own enjoyment.

A further problem with this method is that in human history such a policy or law, if adopted, has never been thoroughly implemented. Settlements after the end of the First World War required the return of certain cultural materials to Belgium, Czechoslovakia and Poland.[1]

[1] For detailed discussion see Prott & O'Keefe, 1989: 804–805.

However Hungary had great difficulty in getting Austria to return some materials of Hungarian origin, even though required by Treaty to do so, on the ground that they had become part of the Imperial collection, which should not be dispersed.

The Second World War saw the development of the critically important Interallied Declaration of 1943. This declared the intention of the Allied Powers to declare invalid any transfers of property on the occupied territories 'whether they have taken the form of open looting of plunder, or of transaction apparently legal in form, even when they purport to be voluntarily effected'.[2] However the initial momentum to fulfil the ambition to undo the looting of occupied countries faded, and the major effort now being made to complete this unfinished business, after so many years, when so much possible evidence and so many witnesses have disappeared, is evidence of the luke-warm commitment of States to the implementation of that Declaration.

Subsequently, UNESCO prepared a text of provisions based on this Declaration for inclusion in the draft Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, finally adopted in 1954. They were considerably diminished in force during the negotiation process[3] and, because of the objections, particularly of the United Kingdom and the United States, they were then relegated to a Protocol. That Protocol has been ratified by only 91 of the 113 States now party to the Convention. (The United Kingdom and United States are not even party to the Convention, and hence not to the Protocol.)

Furthermore, a number of States who are party to the Protocol have not implemented it. In 1999 the Greek Orthodox Church in Cyprus,[4] sued the purchasers of certain important mosaics which had been illegally removed from the Antiphonitis church in the part of Cyprus occupied by Turkey. The purchasers argued that they were in good faith, and therefore not required under the Dutch Civil Code to return them. Both States were party to the Convention and Protocol. However, in this case the Netherlands judges decided that

[2] Text available on http://www.lootedartcommission.com/lootedart_interallied-declaration.htm.

[3] Toman 1996: 338–344.

[4] *Greek Autocephalous Orthodox Church in Cyprus v. Lans*, Court of Rotterdam (Civil), 44053HAZ95/2403, 4 Feb 1999; no official report of this decision exists.

the international obligation was between the Netherlands and Cyprus, whereas the case was between the Church and two private citizens. Their very specific rights under the Civil Code could not be removed by a general provision in the Protocol. The Netherlands therefore found itself in the unpleasant position of being in breach of its international obligations and is currently drafting legislation to overcome this problem.

During the turmoil in Yugoslavia, an exhibition was mounted in Paris which included some items from collections taken from Vukovar in Croatia. The Croatians objected to the French authorities. The Convention and Protocol apply to civil conflict as well as to international conflict and Croatia, France and Yugoslavia were all bound by them. France, a Party to the Protocol, had the duty, under article 2, to take the property into its custody and, under article 3, to return it after the end of the conflict to the Croatian authorities. However the objects were removed from the exhibition by Yugoslavia and withdrawn from France.

The record, therefore, of serious implementation of such provisions is not convincing. What is clear from this rather sorry record, is that the law or policies of return do not at the moment create any substantial deterrent to the removal of movable cultural heritage from an occupied country.

In the case of Afghanistan, it was not party to the Convention or Protocol, so these legal provisions could not be called in aid, and it would be necessary to appeal to a policy process, as has occurred with many Second World War takings in the new crisis of conscience which has reopened the issue for many European countries, especially since the fall of the Soviet Union.

Export to Safe Custody

During the Spanish Civil War the contents of the Prado Museum in Madrid were evacuated to Switzerland by the Republican government in 1939 and returned to Madrid when the new government of General Franco had been recognized by some of the members of the League of Nations.[5]

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[5] Nahlik 1967: 104–105.

This example was followed during the Second World War when the Polish art treasures from Cracow, part of the State collections, were taken to Canada for safe-keeping at the time of the attack on Poland by Germany.

Another example was that of the crown of St. Stephen of Hungary. At the end of the Second World War, the Hungarian Crown guard transferred it to U.S. Army officers to prevent it from falling into the hands of the approaching Soviet army. It was taken to the United States. Cold War tensions, especially the violently suppressed Hungarian uprising of 1956, prevented the return of the Crown to the communist government of Hungary.

However, there have also proved to be difficulties with this solution. While the Prado case was resolved without disadvantage to Spain, the two other cases led to lengthy and sometimes bitter efforts to retrieve the material after the war had finished. Although the Canadian government had allowed the Polish treasures to be stored on Canadian government property, it was at pains to deny, when they were reclaimed by the new Polish government, that it had taken responsibility for them. One of the original custodians who had taken the materials to Canada removed them to private hands shortly after the Canadian government's recognition of the new post-war Polish government, and there they were seized by the provincial government of Quebec, which refused to hand them over. While the Polish government argued that the Canadian government was responsible for preventing the impounding of these treasures, especially, it argued, as State property should be immune from seizure, the Canadian government took the view that the Polish government was at liberty to institute legal proceedings against the holder to prove its claim of ownership. Eventually a settlement was reached without a decision on the issue. By agreeing to return the objects, the Canadian government could avoid an implication that it had committed an international wrong. The objects were finally returned in 1961.[6]

The Crown of St. Stephen of Hungary held in the United States was not returned until 1978. Its proposed return was strongly contested by convinced anti-Communists in unsuccessful litigation.[7] The Axum obelisk has only in 2005 been returned to Ethiopia by Italy, despite

[6] Balawyder 1978; Williams 1977: 146; Nahlik 1980: 255.
[7] *Dole* v. *Carter*, 569 F.2d 1109 (10th Cir. 1977).

the Peace Treaty with Italy of 1947 obliging it to do so. It was taken in 1937.

Transit and Transport

The problems of transit and transport also present problems. Articles 12–14 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954 provide for transport under special protection of cultural property at the request of the Party concerned with immunity and with the display of the special emblem of the Convention. Acts of hostility against that transport are prohibited. This provision was based on the example of the Prado. However it appears never to have been used. It certainly was considered by some curators during the conflict on the territory of the former Yugoslavia. In particular, the contents of the National and University Library of Bosnia and Herzegovina at Sarajevo were considered as a possible evacuation case. However the difficulty in this and other cases, quite distinct from the case of the Prado, was the degree to which the conflict in Yugoslavia was between ethnically and culturally distinct groups. Far from general agreement that the goods concerned were important for the State and its people, whoever won the conflict, there was a deliberate intention to eliminate the culture of the other. The marking of a transport with the symbol of the Convention, the so-called Blue Shield, as much as the seeking of immunity for its contents, may well have provided targeting information for the opposing side. This was the case later with the World Heritage Site of Dubrovnik, which was shelled although flying the flag of UNESCO, whose representatives were in the city, and of the Hague Convention. Two members of the Yugoslav military forces have recently been sentenced to gaol terms[8] by the International Criminal Tribunal dealing with war crimes in Yugoslavia for this attack.[9] At all events, it was decided not to try to evacuate the contents of the Library. As is well known, the Library and most of its contents were destroyed in 1992.

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[8] See also Francioni & Lenzerini in this Volume, chapter 15.

[9] *Prosecutor v. Jokic* Judgment 18 March 2004; *Prosecutor v. Strugar* 31 January 2005. Jokic was sentenced to seven years imprisonment and Strugar to eight. The full text of the Judgments is available upon request at the Public Information Services of the ICTY and is also available on the ICTY Internet site on: http://www.un.org/icty/jokic/trialc/judgement/index.htm.

Afghanistan

This was the situation known to UNESCO when the safety of very important cultural property in Afghanistan became of deep concern. There was severe physical damage to the museum in Kabul (Plates 1a and 39a–40). Material was being smuggled out. A Bodhisattva which had been excavated in Afghanistan and placed in the Jalalabad Museum turned up in the Metropolitan Museum in New York. The excavator, who saw it there, and had not been able to extract any guarantee of return to Jalalabad, requested that UNESCO take up the matter. UNESCO corresponded with the Metropolitan Museum which replied, among other things, that gratitude was appropriate for the current safety of the object, which was exceptional and unique. UNESCO expressed the hope that the satisfaction that the Metropolitan Museum clearly felt in that regard would be increased by the return of the sculpture to Afghanistan when the situation permitted. There it appears that the matter currently rests.

Considerable concern was also expressed over a newly discovered hoard of coins.[10] Such hoards are particularly important for archaeologists working on the history of the country, since there is a long period where there are gaps of knowledge as to the kingdoms of the area and their dating. The discovery of a hoard, particularly one revealing coins not previously found in the country, is therefore of the very first importance, allowing an improved knowledge of the order of the sovereigns and of the date at which coins of earlier reigns were still in circulation, since the most recently dated coin of such a hoard indicates within a quite short range the time when all of the coins must have been buried together. When some of these coins began to appear in the market at Peshawar and elsewhere, numismatists were concerned, and began to look into ways of procuring them. UNESCO reached an agreement with an appropriate institute in France which would receive and conserve them, on the condition that they would be returned to Afghanistan when the situation allowed. Unfortunately it proved in the end not possible to acquire the hoard as a whole, or a substantial number of coins, for such a scheme.

[10] See also Dupree in this Volume, chapter 5.

As the situation in Kabul became more unstable, more objects of apparently Afghan origin began to appear, especially in Peshawar and in the West. The Society for the Preservation of Afghanistan's Cultural Heritage (SPACH), whose genesis and activities have been described elsewhere in this Volume[11] began to receive objects and to look into the question of finding a safe keeping place for them. The situation, however, was legally complex.[12] Afghanistan had a Code for the Protection of Antiquities in Afghanistan dating from 1958 which prohibited the export of antiquities from Afghanistan without the written permission of the Directorate-General of Museums and Preservation of Antiquities.[13] Afghanistan was not party to the Hague Convention 1954, nor to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970. Although it was a party to the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage 1972, this did not apply to movables, and in any event, no sites had been placed on the World Heritage List.[14] (UNESCO had assisted in the return of a sculptured stone head from the World Heritage Site of Hatra, in Iraq, from London in 2002, as those two States had no diplomatic relations at that stage.)

On the other hand Pakistan was a party to all three Conventions—the Hague Convention 1954 since 1959, the 1970 Convention on illicit traffic since 1981 and the World Heritage Convention since 1976. The Pakistani Antiquities Act 1975 (Act VII of 1976) applied an export ban to all antiquities, and the definition of 'antiquity' included 'any ancient product of human activity, movable or immovable, illustrative of art, architecture, craft, custom, literature, morals, politics, religion, warfare or science or of any aspect of civilization or culture'. What is more, once removed from its original location, many antiquities would be found to be of a style which could be identified either with Pakistan or with Afghanistan. Ghandaran remains are an example (Plates 32–34).[15]

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[11] See especially Rodriguez and Cassar in this Volume, chapter 1.

[12] See also Van Krieken in this Volume, chapter 13.

[13] (ed.): for updated information see Annex II.

[14] The World Heritage Committee has inscribed on the World Heritage List: the Minaret and archaeological remains of Jam in 2002 and the cultural landscape and archaeological remains of the Bamiyan Valley in 2003.

[15] Gandharan art: 'On the Indo-Afghan border', see Theuns & Raven in this Volume, chapter 7.

UNESCO clearly could not be associated with any activity contrary to its own legal standards, whether or not the Member States concerned were party to its Convention on illicit traffic, for this would be to ignore its own standards of care for cultural heritage. Furthermore, UNESCO had always made it clear that it disapproved of the purchase of unprovenanced antiquities, which not only encouraged further illicit excavation and theft, but also promoted fraud and forgery. While Pakistani officials were in a number of cases sympathetic to efforts to save the Afghan cultural heritage, they could not contravene their own national legislation in a case where it applied. Finally, the political situation in Afghanistan over the years in question made it quite difficult to get governmental authorization, especially when the Taliban became the government *de facto*, but was not recognized as the government *de jure* by any States except Pakistan, Saudi Arabia and the United Arab Emirates. Since the *de jure* government was no longer in control of Afghanistan, its consent had to be sought from its officials outside the country (such as its diplomatic delegations).

While UNESCO worked behind the scenes with a number of cultural experts to try to find solutions, SPACH continued its work in Afghanistan and Pakistan. UNESCO could not endorse any breach of its Conventions, but it was aware of SPACH's work in Afghanistan and Pakistan to rescue what it could. However, it was then approached by the Swiss authorities on behalf of the Afghanistan Museum Bubendorf, which wanted to do much the same kind of exercise in Europe. It also learnt that Professor Hirayama, long-time expert and good will Ambassador for UNESCO, was doing the same in Asia. The question was, what would happen in the long term to these collections?

The Swiss government was supportive of the Bubendorf Museum, and UNESCO had long had close relations both with SPACH and with Professor Hirayama. The work done in preparation for the receipt in France of the coin hoard already provided some kind or preparatory thinking on these issues.

Accordingly it was decided with the Swiss government that an agreement would be drawn up. This acknowledged the project of the Bubendorf Museum on six conditions. These conditions were that the objects received for this project would be held in trust for the people of Afghanistan, that they would not be used for commercial purposes, that they would be placed in secure premises, that they would be inventoried and the inventory sent to ICOM for safekeeping, that they would be returned to Afghanistan when UNESCO

was satisfied that it was safe to do so, and to the institution nominated by UNESCO. Similar accords were reached with SPACH and the Hirayama Foundation.

It is important to note in what respects these agreements comply with UNESCO's own standards. UNESCO does not purchase, nor endorse purchase, of cultural objects of dubious provenance. It does not endorse violation of national export regulations. It seeks to ensure that the objects of these rescue activities are not mixed in with general collections, or used for the commercial advantage of their operators. Finally, the agreements are clear that the inventoried materials should go back to the afflicted country when possible, and to an appropriate institution—this is of course designed to prevent them disappearing once again. It was felt that agreements including these conditions, in a cultural heritage emergency, would be accepted by UNESCO Member States and States Parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 as responsible action.

It has to be said that this is something of an experiment, and its true value will only become apparent once the time is ripe to return the materials to Afghanistan. Let us hope that the advantages will be seen to be greater than the disadvantages.

UNESCO was also approached by a private individual with a proposal for a mission into Afghanistan to rescue movable cultural objects at the time when the Taliban had taken control. The nature of the mission proposed was such that it required the permission of the *de jure* government, represented at that stage in its diplomatic missions outside Afghanistan. Aerial transport would have been involved, and for that some kind of guarantee of security would have been necessary from the *de facto* government. That was not forthcoming and the mission did not take place.

Other Possible Rescue Procedures

The hesitancy of UNESCO to endorse any procedure which may in the long run contribute further to illicit traffic, and the fact that the benefits and disadvantages of the current experiment cannot yet be fully assessed, leaves one to wonder whether the very best protection for movables may not be to safeguard cultural objects in place.

A number of countries did this during the Second World War, and this experience was built on when drafting the Hague Convention 1954. Article 8(2) provides for refuges of movable cultural property which would be given special protection under the Convention and article 11 of the Regulations makes provision for 'improvised refuges'. The provisions under article 8 have been little used: at present The Netherlands has three such refuges registered and Germany one.[16] However current thinking in, for example, the Netherlands, which originally had six such refuges under Special Protection, is that with the likely rapidity and violence of the onset of modern warfare, transports out of the country or even into national refuges are highly unlikely to be safe. This may also be the thinking in Austria, which has withdrawn its only registered refuge from the list. It would seem better to have a contingency list of the most important pieces in any museum or art gallery for which specified members of staff would be responsible, and a secure area in the building (e.g. a vault or cellar) to which they would immediately take the items.

Some endorsement of that view can be had from the fact of several recent and relatively successful efforts of that kind. In Afghanistan itself, for example, it was reported in November 2004 that thousands of valuable artefacts from Afghanistan's National Museum, long feared destroyed or stolen, had survived two decades of war hidden away in storage. They had apparently been packed away since the Soviet military intervention in Afghanistan in the 1980s and spent 16 years in vaults, through the civil war and the rise of the Taliban movement in the 1990s.[17] While it had been widely believed that about 70 percent of Kabul's Museum collection had been stolen, melted down or otherwise destroyed, outside experts, invited by the museum staff, found that the collection was not only largely intact, but in outstanding condition. The collection's survival owed much to the quiet efforts of museum personnel in 1988, when the decision was made to move the most important artefacts. More than 200 crates and boxes of artefacts were moved from the museum, on the outskirts of Kabul,

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[16] Until 1994 The Netherlands had six such refuges and until 2000 Austria also had one. However, in studying the usefulness of these provisions of the Convention during the preparation of the Second Protocol 1999 to the Convention, UNESCO requested States Parties to review their use and this resulted in the withdrawal of four of them from the special protection provisions.

[17] See the article of Grissmann in this Volume, chapter 4 in which the whole process has been elaborately described.

downtown for storage in the Ministry building. The most valuable pieces, including the Bactrian Gold, a collection of over 20,000 items from 2,000-year-old burial mounds, had already been stored in the presidential palace compound.[18]

This experience is reflected also in the case of the National Museum in Baghdad. There were initial reports of stupendous losses from the museum following the invasion. While large amounts undoubtedly were stolen and have been traced in overseas markets, a substantial amount was hidden on the site, and it was some time before museum staff showed the American authorities searching for the missing materials what they had secured. Some others were found in the hands of private citizens in Baghdad.

However, it is clear that the success of such methods depends on their secrecy. If it became known, or was assumed to be general practice, that museum pieces are concealed on site, determined exploiters (local or foreign), pillaging troops (authorized or not) and vengeful military forces, seemingly authorized to destroy enemy culture, would go straight to any known secure point to look for such pieces.

Conclusion

The protection of movable cultural heritage is difficult even in peacetime.[19] It has taken over thirty years to get all (or nearly all, Germany and The Netherlands are still outstanding) major market States to agree to the principles of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 and to ratify it. The problem is compounded by the States' jealous guarding of their national sovereignty, whereby they wish to maintain complete power to destroy or handle in any way they wish, cultural heritage on their territory, even though it may be of outstanding universal value and of the greatest importance to communities outside, as well as inside, their territory.

UNESCO, as an intergovernmental organization, has to respect the views of its Member States, and can in such cases only use persuasion. Sometimes it is successful, sometimes not. Very often such

[18] New York Times, 17 November 2004 http://www.nytimes.com/.

[19] See also Van Beurden, Siehr and Maniscalco in this Volume, chapter 16, 17 and 18.

approaches are not made public: drawing publicity to them may well force a government, for internal political reasons, to take a much more intransigent view. Those concerned with cultural heritage sometimes assume that such an organization is doing nothing, or is doing it incompetently, when it is, in fact, working hard and sometimes with considerable success. If it wishes to retain its influence with Member States, it cannot reveal what they have required to be kept confidential.

However it is certainly true to say that the structure of intergovernmental organizations is such that sometimes non-governmental organizations, less constrained by the formal legal positions of States, and the political implications of action (or inaction), may be able to do more than the organizations themselves. This was certainly the case with some of the protection issues in Afghanistan. SPACH was on the spot and in a position where it could make informal inquiries and observations.

It is also to be noted that UNESCO itself has no mandate to act in the detection of crime or the custody of cultural materials. Its mandate according to its Constitution is to assist its Member States in the conservation of cultural heritage. It is not funded, and certainly without the physical resources (secure space) and sufficient specialists (experts in security, collections and conservation) to undertake detection or custody functions. What it can do is mediate between States and use its network of professional advisers as efficiently as possible so as to organize protection. It also stands guard, in times of trouble, of the important international standards for which it is responsible and to point to the responsibility of the international community as a whole to prevent the looting, theft and illegal export of the cultural heritage of an afflicted country.

References

Balawyder, A. 1978 *The Odyssey of the Polish Treasures*, Antigonish, Nova Scotia.

Nahlik, S. 1967 'La Protection internationale des biens culturels en cas de conflit armé', *Recueil des cours de l'Académie de la Haye*, 1, 61.

—— 1980 'Le Cas des Collections polonaises au Canada. Considérations juridiques', (1959–60), "The Case of the Displaced Art Treasures" *German Yearbook of International Law*, 23.

Prott, L. V. & P. J. O'Keefe 1989 *Law and the Cultural Heritage. Vol. 3—Movement*, London.

Toman, J. 1996 *The Protection of Cultural Property in the Event of Armed Conflict*, Aldershot/Paris.

Williams, S. A. 1977 'The Polish Art Treasures in Canada: 1940–1960', *Canadian Yearbook of International Law*, 15.

CHAPTER THIRTEEN

DILEMMAS IN THE CULTURAL HERITAGE FIELD: THE AFGHAN CASE AND THE LESSONS FOR THE FUTURE

Juliette van Krieken-Pieters

There is probably no country in the world that has fallen victim to so many cultural heritage-related disasters at the same place and time as Afghanistan. Destruction and neglect by war, the looting of museums, illegal excavations, and wilful demolition on ideological grounds; everything that one tries to prevent nevertheless appeared to take place.

And, indeed, this was a major tragedy not only for the Afghans, but also for the world at large and in particular for the world's cultural heritage. The loss of the Buddhas of Bamiyan could be seen as a metaphor, as the ultimate illustration of what can happen if feelings of animosity escalate beyond control.

It should nevertheless be stressed that many objects that were believed to have been lost did actually survive, such as many of the most precious artefacts of the Kabul Museum, like the Tilla Tepe Hoard also known as the Bactrian Gold. Apart from that, some disadvantages may nevertheless yield some advantages, like increased awareness as regards the background, the reasons for and possibly the prevention of the destruction of artefacts and monuments.[1] In this contribution I would therefore like to point out the following diverse subjects relating to Afghanistan's cultural heritage protection.[2]

1. SPACH and awareness-building
2. The Buddhas of Bamiyan and their hypothetical resurrection

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[1] As indicated in the Introduction Afghanistan accepted f.e. the 1970 Unesco Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property on September 8, 2005; it accessed the 1995 Unidroit Convention on Stolen or Illegally Exported Cultural Objects on September 23, 2005. It will enter into force for Afghanistan on March 1st 2006.

[2] See also Van Krieken-Pieters, 2000, 2002a and 2002b, 2003.

3. The ‘safe haven’ concept on the basis of two examples from Afghanistan: evacuation abroad and the purchasing of looted artefacts from the Kabul Museum

SPACH and Awareness-building

Brief History

The history of Afghanistan is a very ancient one. One of the oldest artefacts in the world representing a human head was discovered in Aq Kupruk, North Afghanistan, by Louis Dupree in the 1960s (Plate 5).[3] It dates from about 15,000 B.C. Other finds even indicate human activities in the area dating from 50,000 years ago and further back than this. Trading goods from the region, like lapis lazuli, have been found both in India and Mesopotamia and they indicate trade routes with these civilizations dating from more than 4,000 years ago. Not much is known about these periods but, hopefully, future findings might shed some more light thereon.

Of great importance is the impressive expedition of Alexander the Great to the East. Out of his 11-year journey, he spent 3 years in the Afghan area (330–327 B.C.). During his travels to this region numerous ‘Alexandrias’ where founded, cities in which a genuine Greek culture could be identified. The most important one is Ai Khanoum in Northern Afghanistan that was totally destroyed by illegal excavations. A great deal still has to be recovered at other places, like Balkh, the old Bactra, where Alexander is said to have married his Roxane. In the third century B.C., i.e. shortly after Alexander left the region, the Mauryan ruler Ashoka spread Buddhism to the edges of his kingdom, and in this way Buddhism penetrated into the Afghan area. It found fertile soil in the former Gandhara province (nowadays East Afghanistan and North-West Pakistan) especially during the first and second centuries A.D. at the time of the great Kushan ruler Kanishka. In those days Afghanistan lay at the heart of the Silk Road. Along its roads were transported, for example, silk from China, delicate glassware from Alexandria, bronze statues from Rome, and beautifully decorated ivories from India (Plates 50–53). Accompanying the

[3] See also the contribution by Dupree in this Volume, chapter 5.

caravans of precious goods, Buddhist monks came and went, teaching their religion along the route.

In the early centuries of the Christian era, Eastern Afghanistan was full of lively Buddhist monasteries, stupas and monks. Here, an astounding mix of an Eastern religion and a Western culture arose: the art of Gandhara, named after the province in which it emerged.[4] This art produced one of the first images of Buddha in human form, under the influence of the classical depictions of gods and human beings. How this exactly happened is not known, because the missing link has not yet been discovered. These new images, on coins, in sculptures, paintings and so forth, were traded along the Silk Road and helped spread Buddhism to China, Korea, Japan and the Himalayas.

Huns from Central Asia destroyed most of the Buddhist monasteries during the fifth century A.D., although some Buddhist sites, particularly those located in remote areas such as the Bamiyan Valley survived until as late as the ninth century. Then, with the introduction of Islam, Buddhism vanished completely. During the eleventh and twelfth centuries, the great Ghaznavid Empire ruled the Afghan area from its capital Ghazni, until the last Ghaznavid prince was defeated by the Ghurids at the end of the twelfth century. The Ghurid culture was almost completely destroyed by Ghengis Khan and his troops around 1222. Only a few monuments, such as the mysterious Minaret of Jam,[5] in the centre of Afghanistan, and the Bamiyan Buddhas, survived this destruction.

During the fifteenth century, the Timurids (descendants of Tamerlane) managed to establish a flourishing civilization, with architecture, poetry and numerous famous manuscripts (Plates 58 and 59). The beautiful blue-tiled monuments in Herat and Balkh bear witness to this time of long ago. Finally, Babur, the founder of the Great Mogul Empire—that stretched far into India—was buried in his beloved Kabul, in the Babur Gardens that are now in the process of being restored.[6]

Although Afghanistan has a rich oral tradition, written sources of its history are quite limited. A few references exist in Persian and Greek chronicles, and several Chinese Buddhists provided valuable

[4] See also the contribution by Theuns & Raven in this Volume, chapter 7.
[5] See the contribution by Thomas and Gascoigne, chapter 10.
[6] See the contribution by Leslie, chapter 11.

descriptions,[7] but on the whole early written records are poor. Therefore archaeological excavation is of the utmost importance for our understanding of the history of Afghanistan and its region. Systematic excavations were started in Afghanistan in the 1920s by the Délégation Archéologique Francaise en Afghanistan (DAFA),[8] and in 1922 an agreement was signed between France and the Afghan king Amanullah that gave the French the exclusive right to excavate in Afghanistan for thirty years. The excavated objects were divided equally between Afghanistan and France, and for that reason the Musée Guimet, the Museum for Asian Art in Paris, now owns an unparalleled collection of Afghan material.

Luckily, several official excavations are now taking place throughout the country: for example, in and near Kabul, Balkh, Jam and the Bamiyan valley.[9] This crossroads of civilizations deserves to be discovered not by bulldozers, but by professional archaeologists.

SPACH[10]

The plight of the cultural heritage of Afghanistan came to the forefront in 1993 when the Kabul Museum was damaged and plundered (Plates 1a and 39a–40). Many looted artefacts were leaving the country.[11] Nancy Dupree, an expert with many connections with Afghans 'in the field', played a major role in trying to stop the destruction. It was in that context that the Society for the Preservation of Afghanistan's Cultural Heritage (SPACH) was set up in Islamabad in September 1994.

One of the aims of SPACH was and is to raise awareness within the country and abroad concerning the plight of Afghanistan's cultural heritage and to stop the destruction, plunder, and illegal sales of Afghan artefacts.

From the beginning SPACH's major concern was the Kabul Museum. Therefore it was decided to make an inventory of the remaining pieces and to bring them to safety. Carla Grissmann,

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[7] For example Xuan Zang in the seventh century.

[8] Bernard 2002.

[9] See Thomas & Gascoigne in this Volume, chapter 10 and Tarzi, chapter 9.

[10] See for a complete overview Cassar and Rodríguez in this Volume, chapter 1.

[11] This was not a new phenomena in the region. See for art theft in the 19th century Theuns & Raven in this Volume, chapter 7.

working for SPACH, has been working for years under harsh conditions to inventorize the remaining, mostly fragmented items.[12]

Furthermore, SPACH has tried to trace objects which were illegally exported from the Kabul Museum and, if possible, to purchase them and eventually to give them back to the museum whenever the situation in the country would become stable.

Also, already in the mid-1990s SPACH became involved in the fate of the Large Buddha of Bamiyan, concerned as it was when it learned that the former Buddhist 'ceremonial hall' behind the Large Buddha's feet was being used as an arsenal for military hardware (Plate 42).

For many years SPACH supported all kinds of projects in Afghanistan to restore certain sites of historic importance, both pre-Islamic and Islamic, for example in Kabul, Herat, Mazar-i-Sharif, Jalalabad (Hadda), Ghazni, Ghur (Jam minaret) and Bamiyan.

Finally, in order to collect and disseminate as much information as possible about the area, SPACH had already built up a network of persons who are experts on, or interested in, Afghanistan's cultural heritage. For the same reason a photographic collection was and is being set up in order to keep the memory of Afghanistan's precious history alive. Many of the photographs in this Volume could be used because of SPACH's kind permission.

Financially, SPACH is supported by donations from various governments and individuals. It is also backed by UNESCO, ICOM, and the International Blue Shield Committee, among others. Raising awareness is one of SPACH's core functions, but because of possible negative side-effects, it poses a dilemma for which an answer needs to be found.

Awareness-building

A basic dilemma in the archaeological field is best illustrated by an archaeologist saying that by excavating one destroys: keeping it buried in the soil is probably the best way to preserve information, monuments and the artefacts themselves.[13] During an excavation new information

[12] See Grissmann in this Volume, chapter 4.

[13] Another saying is that disasters are the best way to retain full information about the past. Pompeï, for example, would never have provided so much information if life had not been so disturbed in such a short time.

is obtained. Besides accurately describing the excavation process and the various findings, one takes away the soil that provides evidence and protection, and sometimes one even takes away (part of) a monument. This is the case when it is decided to look into a deeper layer for more information.[14] Even worse, during the excavation process a site becomes vulnerable if it becomes known that interesting artefacts are being recovered. In the case of Afghanistan this is particularly true.

In the last few decades numerous known and unknown places have been unearthed by illegal excavations. The following brief overview should serve as an illustration. During the war with the Soviets certain sites were damaged, but not on such a large scale as during the civil war (1992–1996), and after the Taliban regime was toppled (2001–to date). Contrary to what many people think, the illegal excavations and the illicit trade in antiquities in Afghanistan did decline sharply during the time of the Taliban rule (1996–2001).[15] There were several reasons for this somewhat surprising development. One reason had to do with the spreading of information: Mullah Omar, the religious leader of the Taliban, did issue a decree in February 2001 to destroy the Buddhas of Bamiyan. However, it is less well known that he issued two other decrees in 1999 concerning the Protection of Afghanistan's Cultural Heritage (see below) in which he emphasized the importance of Afghanistan's heritage. Another reason was a rather grim one: the punishment for looting was severe, but it did help.

As mentioned above, during the first half of the 1990s, a most disturbing time of civil war in Afghanistan, a sharp increase in illegal excavations and the looting of artefacts from the Afghan region could be distinguished. The underlying reason had to do with both the demand and the supply side. Considering the demand side, this might have occurred because the information about Afghanistan as a whole and its intriguing Afghan culture had become well known in many parts of the world. On the other side, the supply side, the war had impoverished the people and as it became known that one could make a profit out of artefacts, indiscriminate looting started. Any aura of respect for cultural heritage had gone and had been replaced by the idea of material profit. At that moment a BBC programme, in

[14] The ultimate dilemma was embodied by an excavation which I witnessed on the outskirts of Kabul, in 2004, in which a huge lying Buddha was covered by an Islamic shrine.

[15] The same can be said about poppy production.

the form of a soap series, was broadcast in the local languages to inform the Afghan people about all kinds of subjects which were relevant to their daily life during a time of war. Besides, for example, agricultural, medical and social subjects, the protection of cultural heritage was included. People were informed in a low-key way about the fact that their past was important and that monuments and sites formed part of their past and should not be destroyed and removed. Many monuments, most of them ruins, were also used as a source of building materials for local buildings, like homes. The result of this ingenious use of radio broadcasts was that several warlords (local leaders) indeed managed to stop the looting by their villagers. On the other side of the coin, however, by providing information about the importance of the artefacts, possible profits could be foreseen and in this way the programmes could have stimulated the plundering. Especially in a region where there is no rule of law and the rules are very much up to the local leader, the personal interest of the leaders is of decisive importance. This can have both negative and positive consequences.

The same can be said about new excavations. With the Russian invasion of Afghanistan in 1979, all legal excavations stopped. Only recently, since 2002, have legal excavations again started. This is of course very promising news. In June 2004 I witnessed the discovery by an official French/Afghan team of a wonderful polychrome Buddha head at a newly discovered site in the hills near Kabul. It was a touching moment, as everything I had ever seen had been excavated before the war or illegally excavated. This is a sign of hope in a recovering Afghanistan.

There is a downside, however, in that a site like the one above can attract looters. Therefore, the sites have to be guarded all the time by reliable, armed guards. And even then the looting can continue according to the reports on corruption at all levels. The Ministry of Culture and Information seems to be fully aware of its difficult and important task.[16] But the corruption issue is related to the lack of a fair justice system, something which is desperately needed as is repeatedly stressed by the former Minister for Women's Issues, Dr. Sima Samar.[17] Because of this lack of justice many people who have had to be put on trial are still part of or have even returned to the

[16] As mentioned by Grissmann in this Volume, chapter 4. See also the Law on Preservation of Historical and Cultural Heritage, Annex II.

[17] Samar & Nadery 2005.

government system. An ultimate example of this is the fact that the Taliban governor of Bamiyan during the time of the destruction of the Buddhas, has now been elected to the new parliament.[18]

However, the positive boost in awareness-building with regard to cultural heritage in Afghanistan will probably by far outweigh the negative side in stimulating the Afghans to appreciate their past. Indeed, many of the problems that Afghanistan is facing are related to the lack of education and this is difficult to solve because of a lack of qualified people. Many of the best educated people were killed or fled the country during the wars. For example, in pre-war times, the National Institute of Archaeology seems to have had at least 50 researchers. Now there are only 12 left, some with little excavation experience. The training of archaeologists is a pivotal task at this moment in time (see also SPACH's contribution, chapter 1).

The Buddhas of Bamiyan and Their Hypothetical Resurrection

The Early History

The two colossal statues, the so-called Large Buddha (55m) and the Small Buddha (38m), hewn out of the rock, are now estimated to have been erected in the middle and the beginning of the sixth century respectively.[19] They were covered with a mud and straw mixture to model the hands and the folds of the robes, and then plastered. Their faces were covered with a metal mask. Finally, they were painted: the smaller Buddha blue, the larger one red, with their hands and faces gold. They must have been an impressive sight for monks travelling through the harsh surrounding landscape, who finally reached the beautiful valley with the peaceful Buddhas making the gesture of reassurance (*abhaya mudra*). The facial mask of the Buddhas had already disappeared long ago. Whether they had been assailed by iconoclasts is not known. This fate was certainly meted out to the frescoes surrounding the Buddhas, namely the numerous religious places and monks' cells also hewn out of the rock and covered with beautiful paintings. The faces of these were destroyed by one of the many groups of invaders to have taken this route. The idea behind

[18] For example the Italian newspaper, *La Repubblica*, October 19, 2005.
[19] See Manhart and Maeda in this Volume, the chapters 3 and 8 respectively.

the destruction was to take away the soul of the hated image by obliterating or at least deforming, the head, and sometimes the hands.

Recent History[20]

The Buddhas survived many onslaughts over the centuries. But as indicated, they have really been at risk since the mid-1990s.[21] Since that time the space at the feet of the bigger Buddha was being used as an ammunition depot by one of the warring factions (Plate 42). It was practical: it was an easily defendable, dry position. Nobody would dare to attack. One shot might have considerably damaged this giant monument. Yet, there would probably not have been any regrets as Buddhism had already vanished from the region a thousand years previously. Hence, using it as an arsenal was probably worth the risk.

SPACH was, of course, greatly concerned about the fate of the great Buddha. This was even more so when, in 1997, a Taliban commander trying to take over the valley stated that he would blow up the Buddhas the moment the valley fell into his hands. After inter-national protests, the Taliban high command in Kandahar denied that they would harm the Buddhas and even promised to do their best to protect the Afghan cultural heritage in general. But SPACH was not completely satisfied and asked the leader of the Hezb-e Wahdat party, under whose authority the commander fell and who controlled the dump, to ensure the removal of the ammunition. He not only agreed, but also a General Office for the Preservation of Historical Sites in Hazarajat, of which Bamiyan forms part, was established.

In the autumn of 1998 the valley fell into the hands of the Taliban. In spite of all the efforts, statements and promises between the Taliban and SPACH negotiators, it was around that time that the head and part of the shoulders of the smaller Buddha were blown off, partly by a rocket, partly by explosives. Even worse, the infamous Taliban commander who threatened to damage the Buddhas in the first place had succeeded in drilling holes in the head of the bigger Buddha with the aim of placing dynamite therein.

He was only stopped at the last moment by the then Taliban governor of the Bamiyan Valley, with whom SPACH was in contact.

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[20] See also Francioni and Lenzerini in this Volume, chapter 15.
[21] SPACH Newsletter 3, July 1997.

Reports said that the commander had even been arrested. The interesting aspect is that the Taliban authorities really made an effort to protect Afghanistan's cultural heritage. As was already mentioned, in July 1999 Mullah Omar issued his two decrees: (a) Concerning the Protection of Cultural Heritage, and (b) Concerning the Preservation of Historic Relics in Afghanistan. In the latter decree it could be read: 'The Taliban Government states that Bamiyan shall not be destroyed but protected. . . .' Special emphasis was placed on the importance of the Buddhas, the fact that they had been constructed before the emergence of Islam, and therefore should be respected according to the Koran and that there are no Buddhists to worship the statues in the country.

The change of attitude by the Taliban regime towards ancient cultural heritage might have occurred in August 2000. The National Museum of Afghanistan (the Kabul Museum) was, as far as possible, reopened and many Taliban were visiting the museum for the first time. Many were shocked by the statues depicting human features of a Bodhisattva and Kanishka (Plates 3b and 45). Something of an outcry seemed to occur: how could human forms be represented in the National Museum of the capital of the Islamic Emirate of Afghanistan, which advocated the destruction of all depictions of living beings? Here the seeds were probably sown for the barbaric decision to demolish all statues in Afghanistan.

On February 26th, 2001, Mullah Omar issued the following decree:[22]

> In view of the fatwa [religious edict] of prominent Afghan scholars and the verdict of the Afghan Supreme Court it has been decided to break down all statues/idols present in different parts of the country. This is because these idols have been gods of the infidels, who worshiped them, and these are respected even now and perhaps may be turned into gods again. The real God is only Allah, and all other false gods should be removed.

Not long before this, Taliban officials had offered assurances that they would respect the same cultural heritage.

Since 9/11 we now know that the decision to demolish the Buddhas and all pre-Islamic monuments and artefacts depicting living beings in the country was the result of an internal power struggle heavily influenced, if not dictated, by foreign forces, or al-Qaeda.

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[22] The text of the edict is available at http://www.archaeology.org/online/news/afghanistan/taliban.html

The Hypothetical Resurrection of the Buddhas

One of the main issues surrounding the preservation of Afghanistan's cultural heritage was[23] and still is for many the question of resurrecting the Buddhas. From the beginning there were forces that strongly promoted these ideas.[24] Wisely enough, it is more or less decided that rebuilding is not appropriate. Ideas on an alternative form of 'resurrection' have also emerged.[25]

Whatever will be decided about the Buddhas, the discussion on rebuilding destroyed monuments, especially Buddhist monuments, is a much broader one. Various practical and ethical questions can be raised in connection with this.

First of all, the intention to restore the Buddhas needs to be queried, and the following answers could be given in support of such a plan:

- to turn Bamiyan once again into a place of pilgrimage for Buddhists, as it has been for so many centuries;
- to create a general tourist attraction in Bamiyan; or
- to use the place as a memorial so as to highlight the barbaric deeds that occurred in this valley It would then act as an example so that that this should never happen again.

Each of these options requires a different approach that would be desirable and possible to accomplish.

Secondly, the question needs to be answered as to *which* original should be used if one were to try and put a copy in place.

During the centuries the actual 'appearance' of the Buddhas did change. We now know, since mid-2005, more or less exactly when they were constructed: in 507 A.D. the Small Buddha, in 551 A.D. the Large Buddha,[26] although these estimates are also not final, because the Carbon 14 method can never be that exact. If they would be given their most original shape a great deal of investigation would

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[23] See Manhart in this Volume, chapter 3: An Expert Working Group on the Preservation of the Bamiyan Site, organized by UNESCO and ICOMOS, reiterated that the statues should not be reconstructed (November 2002).

[24] The New 7 Wonders Foundation, see for example http://cms.n7w.com/index.php?id=37, and http://www.photogrammetry.ethz.ch/research/bamiyan/pub/index.html

[25] The artist Hiro Yamagata plans to project 140 laser 'statues' onto the cliffs of Bamiyan, *The International Herald Tribune*, August 12, 2005.

[26] See Manhart *ibid.*

be required. As indicated, it seemed, for example, that during those early times the Buddhas' faces were formed by a kind of golden mask and that they had been decorated with colour and ornaments. 'To the north-east of the royal city there is a mountain, on the declivity of which is placed a stone figure of Buddha, erect, in height 140 or 150 feet. Its golden hues sparkle on every side, and its precious ornaments dazzle the eyes by their brightness.'[27]

They could also be rebuilt into the state they were in in 1998 before the first damage by the Taliban. Most of the photographs which we have are from this period.

Alternatively, it could be chosen to reshape them in the form they were in just before the destruction took place in March 2001: the head of the Small Buddha having been blown off and the head of the Large Buddha blackened by a burning tire.

In the immediate years after the destruction a restoration method called *anastylosis* was considered. This universally applied method was invented by the Dutch Professor Stutterheim at the beginning of the 20th century during the restoration of the Borobudur in Indonesia. In this method the surviving pieces are used and the missing parts are clearly distinguishable and are then filled in with another material. Interestingly enough this wonderful method is much more expensive than reshaping the monument with totally new materials.

Some people have suggested that by rebuilding the Buddhas there would be a risk that they would be destroyed once again. Of course, the forces that lay behind the demolition are still present in Afghanistan. Not necessarily the Taliban, but those foreign forces loyal to Osama bin Laden. He is the one that spreads Wahhabism, the quite recently (18th century) established branch of Islam that forbids all depictions of living beings. The Afghans as such did not want their Buddhas to be destroyed. They formed part of their personal history, at least for the people that were aware of their existence. One has to keep in mind that even Mullah Omar issued decrees in 1999 to emphasize the importance of the Buddhas.

However, as has been mentioned at the beginning: the Afghans themselves chose not to rebuild the Buddhas. My own personal experience is that the empty niches already radiate immense strength. This emission might have become even stronger, now that one realizes

[27] Xuan Zang, *Si-yu-ki*: 50–51.

what these places have been going through. And, of course, this valley alone already gives one a wonderful feeling, as it must also have given visitors an overwhelming feeling from early times onwards. Otherwise it would never have been chosen as the place to create these enormous standing Buddhas. The Large Buddha was the largest standing Buddha in the entire world.

Another argument for not rebuilding the Buddhas is a Buddhist one. Did not Buddha himself tell his followers that everything is transcient and nothing is permanent? Another Buddhist saying is that every destruction leads to construction and that every construction leads to destruction. In other words, we have to accept that we will lose the things or the feelings that are dear to us. Something else will replace them. But most of us who do not crave to have this insight, or who do not yet have such an insight, have a permanent inner determination to preserve what we cherish. Regarding the Buddhas we probably have to accept what happened and to strive towards a majestic construction of another kind.

To some extent it is somewhat cynical if one realizes that a statue of Buddha, who himself did not want to be considered a god at all, was being depicted as a supernatural being and because of that it was feared that he would be worshipped as an idol, was destroyed, leaving such an impact not only on the Afghans themselves, but on many people all over the world. Buddha himself, who left the world with a teaching urging us to bring an end to the suffering in the universe, would certainly not have accepted being the cause of such suffering.

Yet, it is possible to see it otherwise: if the Buddhas would not have been destroyed, probably hardly any people in the world would have known about them, as it was before February/March 2001. Since then, not only the Buddhas but Afghanistan and its cultural heritage have come into the spotlight once again. This is not always positive news, of course . . . It could increase interest in culture and stimulate the illicit trade in artefacts. But thinking in Buddhist terms, it gave the Wheel of the Dharma a new swing, in the sense that many people all over the world started to realize not only what had occurred in Afghanistan, but also with regard to Buddhism in general. If this useless deed of destruction will be remembered and spread by many generations to come, the demolition will in the end not have been totally without any positive results: the Buddhas of Bamiyan will be more known and valued than they have been during the last centuries.

If this will be the case, the destruction of the Buddhas of Bamiyan will not have been in vain.

Dilemmas Concerning 'Safe Haven' in the Case of Afghanistan

A subject that has become topical during the last decade in Afghanistan is the 'safe haven' concept. A 'safe haven' could be described as a place of safe deposit for endangered cultural objects.[28] Many people in the legal, archaeological or museum field are opposed to or have mixed feelings when it comes to the concept of a 'safe haven'. Their main concern lies in the fact that there are always those who will use it as an excuse for misuse. Some dealers, private collectors and even museums, for example, did buy objects from Afghanistan during the war (and probably still do so even now) with the excuse of preserving it for Afghanistan until the situation will have become stabilized. Sometimes this reason was only given after accusations of unjust actions especially after the destruction of objects in the Kabul Museum and the Buddhas of Bamiyan. This is vividly illustrated by the example of the Schøyen collection in the contribution by Omland to this Volume.[29]

Furthermore, several contributions in this book, by Lyndel Prott[30] partly, and by Kurt Siehr[31] completely so, are dedicated to the 'safe haven' subject. It is clear that this subject needs some careful attention, as probably more cultural heritage might be endangered in the future.

A fairly wide range of possible 'safe havens' exist, as Kurt Siehr so clearly points out. Two possibilities will be highlighted below: evacuation abroad and the purchasing of looted artefacts.

Evacuation Abroad

As indicated so effectively in the article by Carla Grissmann in this Volume,[32] by the persistent actions and the courage of the staff of the Kabul Museum, after many years of insecurity, it transpired that the most important objects from the Museum had survived many close encounters. However, for many years an evacuation of part of the collection of the Kabul Museum to a 'safe haven' abroad has been considered. In the aftermath of the looting of the museum, especially

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[28] See also Siehr in this Volume, chapter 17.
[29] Chapter 14.
[30] Chapter 12.
[31] Chapter 17.
[32] Chapter 4.

in 1993, and the March 2001 developments, it could be submitted that the world should have listened more carefully to the demands and anxieties of some of the rulers. In 1989, Najibullah, the last Afghan/communist president, did at that time foresee what would happen in the immediate future[33] and asked an outsider for help concerning the National Collection of the Kabul Museum. The Swiss Mr. Bucherer had founded the Foundation Bibliotheca Afghanica in Switzerland in 1983. According to Bucherer, the President's request was to take into custody the most important objects from the Kabul Museum, especially the famous treasure of Tilla Tepe because he felt that the collection was not safe. Najibullah was overruled by his ministers as well as Afghan and foreign archaeologists, who stuck to the idea that cultural goods should be kept in the country of origin. Luckily, the most important pieces were secretly hidden inside Kabul to be found intact 20-odd years later.

The bombing and looting of the Museum, starting in 1993, is common knowledge. Shortly thereafter, SPACH was formed. During the earliest discussions an idea emerged to safeguard the remaining pieces of the collection in a 'safe haven' either inside or outside Afghanistan (Pakistan, France). However, in view of the international treaties and customary law, and taking into account the will of the authorities at that time, it was decided to shift the remaining artefacts to a safer place inside Kabul. This happened in 1996.[34]

The Afghanistan Museum in Exile

In 1998 Mr Bucherer went to Afghanistan on a three-month fact-finding mission. 'In Kabul as well as in the north, the question was raised, whether it would be possible to install a safe haven in Switzerland for temporary storage of such irreplaceable objects, which should be shown to the public, in order to create awareness of the important cultural past of Afghanistan. This was the way, how the idea of an Afghanistan Museum in Exile was born.'[35] Mr Bucherer wanted to emphasize that the idea was not his, and neither was it that of the Swiss Government or of UNESCO. It was entirely the idea of Afghans themselves. Later on, more pleas came from both sides, Taliban and Mujahideen alike, to Switzerland, through Mr Bucherer,

[33] See also Grissmann in this Volume, chapter 4.
[34] This story is described in detail by Grissmann (chapter 4).
[35] Bucherer-Dietschi 2002, 158.

to export the remaining collection abroad. They all felt the threat of destruction or looting. Although the Swiss Museum was fully prepared to host the endangered objects (backed by the Swiss Government) an evacuation never took place. It ended not only with the destruction of the Buddhas of Bamiyan but also with the destruction of many smaller movable treasures of Afghanistan.

Why an evacuation never took place is not fully known. Lyndel Prott[36] mentions especially the lack of any guarantees of security which were required by the *de facto* government for air transport as the decisive factor. Whatever the reason for the decision concerned,—this kind of evacuation has to be examined in detail, in order to be able to react as effectively as possible, when faced with a comparable event in the future.

Provisions in International Legal Instruments with Respect to 'Safe Haven'

It should be emphasized that the concept of 'safe haven' can already be found in provisions from two important international legal instruments.

1) The second part of the First Protocol to the 1954 UNESCO Convention on the Protection of Cultural Property in the Event of Armed Conflict, signed at The Hague on 14 May, 1954:

> Cultural property coming from the territory of a High Contracting Party and deposited by it in the territory of another High Contracting Party for the purpose of protecting such property against the dangers of an armed conflict, shall be returned by the latter, at the end of hostilities, to the competent authorities of the territory from which it came.

2) Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property:[37]

> Any State Party to this Convention whose cultural patrimony is in jeopardy from pillage of archaeological or ethnological materials may call upon other States Parties who are affected. The States Parties to this Convention undertake, in these circumstances, to participate in a concerted international effort to determine and to carry out the nec-

[36] See in this Volume, chapter 12.

[37] Afghanistan accepted the 1970 Unesco Convention on September 8, 2005; it accessed the 1995 Unidroit Convention on Stolen or Illegally Exported Cultural Objects on September 23, 2005. It will enter into force for Afghanistan on March 1st 2006.

> essary concrete measures, including the control of exports and imports and international commerce in the specific materials concerned. Pending agreement each State concerned shall take provisional measures to the extent feasible to prevent irremediable injury to the cultural heritage of the requesting State.

Very illustrative is the fact that the first provision mentioned above as well as some others in the Protocol were meant to form part of the 1954 UNESCO Convention proper. However, because of an 'irreconcilable split' the articles were transferred to the Protocol. 'The majority of the Delegations wanted to include in the new Convention binding controls over transfers of movable cultural property within war zones and occupied territories. However, a number of countries argued strongly against this position, arguing variously that such measures would either damage the international art and antiquities trade, interfere with private property rights within their countries or, in most cases, both.'[38] As a compromise a separate legal instrument was created to lay down the measures concerned. To date, there are more than a dozen countries which have ratified the 1954 Convention but not the First Protocol.

A Swiss Example to be Followed

However, one has to keep in mind that these provisions need to be implemented in national legislation in order to be effective. Therefore, the example of Switzerland, also indicated in the article by Kurt Siehr, should be followed in this respect. On June 1st 2005, the Swiss Federal Act on the International Transfer of Cultural Property came into force. It contains some explicit articles that pave the way for 'safe haven' for cultural property jeopardized by exceptional events.[39] The most relevant, article 8, reads as follows:

> Limited Measures
> To protect a state's cultural heritage jeopardised by exceptional events, the Federal Council may:
> a. enable the import, transit, and export of cultural property, tie it to conditions, limitations, or prohibitions;
> b. participate in common international actions in terms of Article 9, UNESCO Convention of 1970. The measures must be limited in time.

[38] Boylan 2002: 46.
[39] In this Act, financial support is even provided for (art. 14).

Switzerland's tradition of providing a 'safe haven' is once again continued. In this respect, Switzerland's legislation could serve as an example for the rest of the world.[40]

The Purchasing of Looted Artefacts from the Kabul Museum by SPACH

An issue that gave rise to fairly heated discussions was the policy by SPACH, which already emerged in 1994, concerning looted objects from the Kabul Museum.

The Main Principle

Undoubtedly, the main principle concerning stolen or illicitly exported goods should be that acquisition is forbidden. Legally, scientifically and ethically this has been laid down in legal instruments, both national and international, and professional documents.[41] However, during these last couple of decades we have seen an increasing tendency towards the wilful destruction of cultural heritage. This hostility against specific movable and immovable cultural property takes place both in times of war and peace.[42]

The pertinent question is the following: how should the exception to the general rule be defined so that when the security (or survival) of the item or a cluster of items is threatened in a country, appropriate action can be undertaken.

SPACH's Policy

As indicated above, SPACH, an association specifically set up to protect Afghanistan's Cultural Heritage, was already from 1994 onwards moving in a direction which was hitherto considered controversial. It had started to operate on the illicit art market. It tried to iden-

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[40] Neither Switzerland nor Afghanistan has acceded to this First Protocol. A total of 113 other countries, however, have done so. Yet it could be submitted that the 'safe haven' concept has meanwhile become part of customary law, meaning that accession is no longer a *conditio sine qua non*. Swiss 'hospitality' is exemplified by the fact that the Swiss opened and operated a Prisoner of War (POW) camp (not far from Zurich) for Soviet soldiers captured by the Mujahideen and it was only closed—in accordance with art. 118 of the Third Geneva (Red Cross) Convention—upon the cessation of hostilities.

[41] See also Van Beurden in this Volume, chapter 16.

[42] Even in Europe, a certain Muslim group wanted to see the destruction of part of a fresco in Bologna. The fresco, located in the 14th century San Petronio Church, was claimed to be humiliating because Muhammad was depicted in a controversial manner. This was something that many other Muslims denied. The attackers, supposedly connected to Al-Qaeda, were stopped by the police just in time in August 2002.

tify stolen objects from the Kabul Museum in a desperate attempt to preserve as much as possible of the collection which had been looted since 1993. Financed by several governments such as Greece, Cyprus, Italy, the Netherlands and Japan, it had decided, after many discussions, to challenge the international rules and secretly to purchase items that were undoubtedly from the Kabul Museum, that is, with clear provenance. Everything else was refused. Of course this decision was taken after a careful weighing of the various pros and cons against each other. This occurred during several Board meetings, in which specialists in the Afghan cultural field and diplomats who had knowledge of the situation were represented. As indicated above, the author herself was the first secretary of SPACH and took part in these meetings.

The idea was to keep them during wartime and to give them back as soon as hostilities were over. Of course SPACH was fully aware of the possibility that looting could thereby be stimulated. Yet, the importance of the items from the Kabul Museum was given preference. Some items were just too expensive and, with great regret, SPACH saw these items disappear onto the Western or Japanese art markets, maybe never to return to the Kabul Museum. The items purchased by SPACH were kept secretly until the moment when they could be returned to the Museum under strict security. SPACH was criticized by both UNESCO and ICOM in the 1990s. In my opinion what SPACH did was simply a reaction to what should have been done proactively, at the time of Najibullah, before the outbreak of the civil war and the 1993 looting.

What is interesting and encouraging is that after the dramatic events of the spring of 2001, UNESCO's policy changed.

UNESCO's Policy Since Spring 2001

As indicated in Lyndel Protts' interesting contribution, UNESCO did come up with a statement on these and related issues in the spring of 2001. The website text on UNESCO's culture sector in Afghanistan[43] reads as follows:

> The safekeeping and return of Afghan cultural property:
>
> UNESCO's policy on the protective safekeeping of cultural property is straightforward. Where there is a serious danger to the survival of

[43] http://portal.unesco.org/es/ev.php-URL_ID=3712&URL_DO=DO_TOPIC&URL_SECTION=201.html (accessed December 5, 2005).

> heritage, and at the request of the recognized government of the country concerned, UNESCO will arrange with NGOs the safe custody of objects donated to it and their return to that country when the situation allows.
>
> UNESCO supports non-profit organizations working to take cultural objects into safe custody. It will not itself purchase objects that are being illicitly trafficked.
>
> In the case of Afghanistan, and consequent to the destruction of heritage by the Taliban, UNESCO has created a special programme to assist in the rescue of cultural heritage of Afghan origin.
>
> UNESCO, in partnership with the Foundation for Cultural Heritage in Japan [Hirayama Foundation], the Society for the Preservation of Afghanistan's Cultural Heritage (SPACH) based in Islamabad, Pakistan, and the Swiss Afghanistan Museum in Bubendorf, is currently taking Afghan cultural property found on the international art market into protective custody, particularly objects stolen from museums or discovered during illicit excavations.
>
> These objects, once found and categorized, will be returned to Afghanistan when peace has returned to the country.

UNESCO's Role

Although this change of attitude by UNESCO towards the safe custody of illicitly exported objects is in the opinion of the present author very welcome, several remarks should nevertheless be made.

'Where there is a serious danger to the survival of heritage, and at the request of the recognized government of the country concerned, UNESCO will arrange with NGOs the safe custody of objects donated to it and their return to that country when the situation allows.'

This is a wonderful provision because it opens the possibility to export cultural heritage in the case of a serious threat. However, the first difficulty is the following: what does 'a serious danger to the survival of heritage' mean? And who is to determine whether, indeed, 'a serious danger to the survival of heritage' is or was at stake? The second problem is the provision 'at the request of the recognized government'. In theory a completely understandable provision, however, in practice the demand of a 'recognized' government can be quite disastrous, as we saw in the case of Afghanistan. The Taliban officials asked for exportation. Because of the fact that the Taliban government was, with a few exceptions,[44] not recognized by the international community, was this not a serious threat to be taken into consideration?

[44] Pakistan, Saudi Arabia, United Arab Emirates.

Unfortunately, we might need this provision in the future more than we would wish.[45] It means, in general, that we have to stay alert and we might even have to inform officials about the evacuation possibility in a case of threat.[46]

'UNESCO supports non-profit organizations working to take cultural objects into safe custody. It will not itself purchase objects that are being illicitly trafficked.'

UNESCO will not purchase objects itself. Does this imply that these non-profit organizations are allowed to purchase illicitly trafficked objects to keep in safe custody? No distinction is made between fully registered/legally excavated artefacts, often from museums, and illegally excavated items.

'UNESCO, in partnership with the Foundation for Cultural Heritage in Japan [Hirayama Foundation], the Society for the Preservation of Afghanistan's Cultural Heritage (SPACH) based in Islamabad, Pakistan, and the Swiss Afghanistan Museum in Bubendorf, is currently taking Afghan cultural property found on the international art market into protective custody, particularly objects stolen from museums or discovered during illicit excavations.'

This statement raises some pertinent questions. What exactly does this mean? Is there a difference between 'protective custody' and 'safe custody'? Are these organizations allowed to buy or to acquire objects stolen from museums or discovered during illicit excavations? This description is surely kept vague on purpose. However, it might be submitted that it is wrong to keep rules vague concerning illicit excavations. It should be emphasized that objects from illicit excavations should never be allowed to be purchased with permission. This should be made clear both to the public, the dealers and the diggers: illicit excavations should be stopped instead of encouraged and rewarded! This provision only mentions cultural property found on

[45] For example in the case of the Central Asian Republics where Saudi influence is great because of financial aid with restrictive conditions. As mentioned before, the Saudi influence (Wahhabi Islam) was the main reason behind the destruction of the Buddhas of Bamiyan and other cultural treasures in Afghanistan. I personally also fear for the fate of similar treasures in some South East Asia countries like Indonesia and Malaysia.

[46] The return issue, although a logical and indispensable part of the equation, should not be underestimated.

the international market. What about property found on the local market in Afghanistan or Pakistan?

To sum up, it should be emphasized that the special provisions established by UNESCO are a great step forward in the protection of cultural heritage, although some provisions are too vague for their own good. Of course, UNESCO did have to overcome a great many problems and challenges in formulating these criteria, especially where it concerns unwanted precedents. Yet, in my opinion there should be a more detailed general policy with stricter rules for acquisition in times of emergency. Most ideally, a total collection should be evacuated temporarily to a safe haven when there is a serious threat. If this is too late or not feasible, only in specific well defined cases should adequately registered and legally excavated items, from museums or institutions only, be allowed to be purchased by 'bona fide (foreign) institutions. These 'bona fide' institutions can only be called 'bona fide' if they take 'due diligence' into consideration in connection with the provenance, the custody and the return of the object.

In this way, the UNESCO statement could turn out to be useful and appropriate, a tool worthy of attention and development.

Possible Pitfalls

The above issues are just a few out of the many that have given rise to interesting discussions. Prof. Colin Renfrew,[47] one of the foremost authorities in the cultural heritage field stated the following on the possible pitfalls on the 'safe haven' principle:

> The real risk in accepting the 'Safe Haven' principle whereby approval would be implied that in some circumstances antiquities could be appropriately conserved outside their country of origin is that either private collectors or museums might misuse it in order to extend their collections. [[48]] Already there are indications that some major museums are acquiring antiquities from areas disrupted by war, using a version of the safe haven principle as a kind of pretext. In effect, they are exac-

[47] McDonald Institute for Archaeological Research, Cambridge University.

[48] 'The safe haven argument can easily be open to abuse and the Harvard museums were showing signs of trying to collect Afghan antiquities under that umbrella.', Professor Renfrew in a personal mail, December 2005.

erbating the situation by ensuring that looting even in times of war pays well. It is therefore essential that a mechanism be found whereby international recognition may be given to one or possibly more than one designated safe haven in respect of any particular area which is vulnerable over a specific time period. I believe that . . . [one] would do well to discuss with UNESCO and with ICOM how such a system might work and how an international organisation, perhaps preferably UNESCO, could have a procedure when the safety of antiquities is threatened in a specific area at a particular time for designating 'safe havens'. The intention would always need to be present that the antiquities in question would be returned to the country of origin when it was judged that the situation had become stable. It therefore probably follows that ownership of the antiquities should be determined as remaining with the government of the country of origin or if (as in the case of the Taliban) this would be inappropriate, with the international organisation itself.

. . . The 'safe haven' argument is exceptional in that by international agreement, looted materials are curated outside the boundaries of the state or nation of origin. That can appropriately only happen under strict international supervision. And it is crucial that museums or other organisations which act unilaterally and without international approval in claiming to fulfil the safe haven role should be identified, publicly exposed and condemned by the international organisations involved for undermining and betraying a procedure which when appropriately applied with international recognition may have a valid role.[49]

Conclusion

In summary, and with due reference to what Siehr states on page 334 of this Volume, it is hereby submitted that the concept of providing a 'safe haven' is one which is eminently feasible, as long as the above-mentioned possible pitfalls are taken into account. The very possibility of creating 'safe havens' may make a significant difference in many cases. Future threats to cultural heritage in Afghanistan or elsewhere can now be dealt with in this constructive solution-oriented way.

The dramatic events in Afghanistan may thus have contributed to a positive development in the approach towards safeguarding invaluable artefacts.

[49] In a personal e-mail, autumn 2004.

References

Alder C. & K. Polk 2005 'The Illicit Traffic in Plundered Antiquities', *Handbook of Transnational Crime & Justice*, 98–113.

Allchin F. R. & N. Hammond (eds.) 1978 *The Archaeology of Afghanistan, from the Earliest Times to the Timurid Period*, London.

Atwood, R. 2004 *Stealing History: Tomb Raiders, Smugglers and the Looting of the Ancient World*, New York.

Ball, W. 1982 *Archaeological Gazetteer of Afghanistan*, (second edition in press), Paris.

Bernard, P. 2002 *l'Oeuvre de la Délégation Archéologique Française en Afghanistan (1922–1982)*, extrait des Comptes rendus de l'Académie des Inscriptions et Belles-Lettres, fasc. 4, Nov.–déc. 2002, (available on http://www.aibl.fr/fr/seance/discours/disc_bernard.html, accessed December 5, 2005).

Bleaney, C. H. & M. A. Gallego (compiled by) 2006 *Afghanistan. A Bibliography*, Leiden, Boston.

Bopearachchi, O. & P. Flandrin 2005 *Le Portrait d'Alexandre le Grand. Histoire d'une découverte pour l'humanité*, Monaco.

Bopearachchi, O. & M.-F. Boussac (eds.) 2005 *Afghanistan. Ancien Carrefour entre l'Est et l'Ouest*, Turnhout Belgium.

Boylan, P. J. 2002 'The 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and its 1954 and 1999 Protocols', in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.), collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 41–52.

Brodie, N. J. & K. Tubb (ed.) 2002 *Illicit Antiquities*, London & New York.

Brodie, N., J. Doole & P. Watson 2000 *Stealing history. The illicit trade in cultural material*, Cambridge.

Brodie, N. J., Kersel, M., Luke, C. & K. W. Tubb (eds.) (in press) *Archaeology, Cultural Heritage, and the Trade in Antiquities*, Gainesville, Florida.

Bucherer, P. 2002 'Protection and Restitution of Afghan Cultural Heritage', in *Bamiyan. Challenge to World Heritage*, K. Warikoo (ed.), New Delhi, 156–163.

Cambon, P. (et al.) 2002 *Afghanistan, une histoire millénaire*, Catalogue d'exposition, Paris.

Dupree, L. & N. Hatch Dupree & A. A. Motamedi 1974 *The National Museum of Afghanistan. An Illustrated Guide*, Kabul.

Dupree, L. 1973 (revised 1978 and 1980) *Afghanistan*, Princeton.

Dupree, N. Hatch 1996 'Museum Under Siege', *Archaeology* 49, 42–51.

—— 1998 'Status of Afghanistan's Cultural Heritage', *SPACH Library Series*, 1, Peshawar.

Errington, E. & J. Cribb (eds.) 1992 *The Crossroads of Asia. Transformation in Image and Symbol in the Art of Ancient Afghanistan and Pakistan*, Cambridge.

Feitsma, J. 1994 'Opnieuw Afghanistan, van koude tot burgeroorlog', *Internationale Spectator* 48/11, 549–553.

Flandrin, P. 2001 *Le Trésor Perdu des Rois d'Afghanistan. Balades Barbares*, Monaco.

Klimburg-Salter, D. 1989 *The Kingdom of Bamiyan. Buddhist Art and Architecture of the Hindu Kush*, Naples, Rome.

Lawler, A. 2002 'Afghanistan's Challenge', *Science* 8, 1195–1204.

Lee, D. 2000 'History and art are being wiped out', *The Art Newspaper*, March.

Leslie J. & C. Johnson 2004 *Afghanistan: The Mirage of Peace*, London, New York.

Lundén, S. 2004 'The Scholar and the Market. Swedish scholarly contributions to the destruction of the world's archaeological heritage', in *Swedish Archaeologists on Ethics*, H. Karlsson (ed.), Lindome, 197–247.

Maeda, K. 2002 *Bamiyan Buddhist Site of Afghanistan*, Tokyo.

Maniscalco, F. (forthcoming) *Guidelines for the Safeguarding of Cultural Property in the Event of Armed Conflict*.

Merryman, J. H. 2000 *Thinking about the Elgin Marbles: Critical Essays on Cultural Property, Art and Law*, London.

Otter, M. 2000 'Beschermen, beschaven . . . beschieten—De noodzaak van internationale en nationale regels voor cultuurbescherming', *Boekmancahier* 46, 337–356.

Prott, L. V. & P. J. O'Keefe 1984 *Law and the Cultural Heritage, Vol. 1, Discovery & Excavation*, Abingdon.

Renfrew, C. 2001 *Loot, Legitimacy and Ownership*, London.

Rowland, B. & F. M. Rice 1971 *Art in Afghanistan*, London.

Samar, S. & N. Nadery 2005 'Afghanistan: A cry for justice', *The International Herald Tribune*, February 3, 2005 (available on http://www.iht.com/articles/2005/02/02/opinion/edsamar.php, accessed December 10, 2005).

Sarianidi, V. 1985 *Bactrian Gold. From the Excavations of the Tillya-Tepe Necropolis in Northern Afghanistan*, Leningrad.

Siehr, K. 'The Protection of Cultural Heritage and International Commerce', *International Journal of Cultural Property*, Vol. 6, 304–325.

SPACH Newsletters, 1995–, *Society for the Protection of Afghanistan's Cultural Heritage*, Islamabad.

Tarzi, Z. & A. W. Feroozi 2004 'The Impact of War upon Afghanistan's Cultural Heritage', *AIA Publications*, Washington D.C. (available on http://www.archaeological.org/pdfs/papers/AIA_Afghanistan_address_lowres.pdf).

Thomas, D. C., G. Pastori & I. Cucco 2004 'Excavations at Jam, Afghanistan', *East and West* 54, 87–119.

Tissot, F. 2002 *Kaboul, le Passé Confisqué*, Paris.

Van Krieken-Pieters, J. 2000 'De bescherming van Afghanistans culturele erfgoed—Idealisme of werkelijkheid?', *Boekmancahier* 46, 374–385.

—— 2000 'The Buddhas of Bamiyan. Challenged witnesses of Afghanistan's forgotten past', *Newsletter of the International Institute for Asian Studies* 23 (available on http://www.iias.nl/iiasn/23/index.html, accessed September 18, 2005), 14.

—— 2002a 'The Buddhas of Bamiyan and beyond, the quest for an effective protection of cultural property', Seminar publication: *Bamiyan. Challenge to World Heritage*, Himalayan Research and Cultural Foundation and Ladakh Buddhist Association, New Delhi, 206–229.

—— 2002b 'Afghanistan's Shattered Cultural Heritage. Hope for Reconstruction?', in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.), collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 305–316.

—— 2003 'Boeddhistische kunst in Afghanistan. Opkomst, neergang en wedergeboorte?', *Kwartaalblad Boeddhisme* 31, 48–52.

—— (in press) 'Afghanistan's Cultural Heritage: An Exceptional Case?', in '*Archaeology, Cultural Heritage, and the Trade in Antiquities*', Brodie, N. J., Kersel, M., Luke, C. and K. W. Tubb (eds.), Gainesville, Florida.

Warikoo, K. (ed.) 2002 *Bamiyan: Challenge to World Heritage*, New Delhi.

Wylie, A. 2000 'Ethical Dilemmas in Archaeological Practice. Looting, Repatriation, Stewardship, and the (Trans)formation of Disciplinary Identity', in *Ethics in American Archaeology*, M. J. Lynott & A. Wylie, second revised ed. Society for American Archaeology, Washington D.C., 138–157.

Xuan Zang (Hsuan-tsang) 1884 (transl. by S. Beal, Si-Yu-Ki) *Buddhist Records of the Western World*, London.

CHAPTER FOURTEEN

CLAIMING GANDHARA: LEGITIMIZING OWNERSHIP OF BUDDHIST MANUSCRIPTS IN THE SCHØYEN COLLECTION, NORWAY

Atle Omland*

> Recently, to the great surprise and joy of the scholarly community of Buddhist studies, a sizeable collection of Buddhist manuscripts appeared, with new and important material for the study of Indian Buddhist history, religion and culture. According to scanty and partly confirmed information from the local dealers, most of these mainly Buddhist Sanskrit manuscripts were found quite recently in Afghanistan by local people taking refuge from the Taliban forces in caves near the Bamiyan valley, where an old library may have been situated, or possibly hidden. There are certain indications, however, that some of the material comes from other places. (. . .). According to information passed on by the manuscript dealers, many manuscripts were further damaged when Taliban forces blew up a stone statue of the Buddha in one of the caves. Local people trying to save the manuscripts from the Taliban were chased by them when carrying the manuscripts through passes in the Hindu Kush to the north of the Khyber Pass. Further damage was incurred in this period, but the rescue operation was for the most part a success.[1]

> At a symposium (. . .), Dr P. Verhagen emphasized the importance of manuscripts from Afghanistan for the understanding and study of early Buddhism. He told the audience that, during the last decade, many of these kinds of manuscripts had shown up in the Western world. Quite a number are in the hands of the Schøyen collection in Norway. Perhaps for the audience it was an interesting statement, but for me it was quite a shock.[2]

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* I am greatly in debt to Christopher Prescott, with whom I have co-written several articles about this case, and who has on several occasions raised his critical concerns in the Norwegian media. I also acknowledge the work by Leif Anker in the Norwegian museums journal (Museumsnytt), and the NRK journalist Ola Flyum and his colleagues for their investigations into the Schøyen Collection, both have commented on early versions of the article. Neil Brodie has done a tremendous job commenting and proofing, and I am especially thankful to Juliette van Krieken-Pieters for inviting me to write this article and for her help during the years of debate.

[1] Braarvig 2000: xiii.

[2] Van Krieken-Pieters 2000: 14.

The above quotations introduce two different publications by referring to a collection of Buddhist manuscripts taken out of Afghanistan in the 1990s and currently held in the private Schøyen Collection, Norway. The author of the first publication argues in favour of the scholarly importance of the manuscripts and supports their trafficking to the West. The second author counters this argument by using the trafficking and the Western appropriation and ownership as a starting point for telling the sad story of the destruction of the cultural heritage of Afghanistan.

Knowing that views about the ownership of cultural objects removed from a country in wartime are contested, from the fall of 2001 I engaged myself in the controversy surrounding the Afghan manuscripts in Schøyen Collection. This article discusses the legitimacy of Schøyen's ownership of the manuscripts, showing more generally how collections in the West that claim ownership of cultural objects taken from Afghanistan might receive support from public institutions, officials and scholars. The example of the Schøyen Collection is important for other claims for the ownership of the cultural heritage of Afghanistan and ancient Gandhara, which, because of the global antiquities market, is disappearing from where it once flourished. Professor Taj Ali wrote in 1995:

> If we do not act promptly, even the few remaining vestiges of the Gandharan civilization which have survived the depredations of illegal excavations, will disappear from the face of the earth.[3]

The Schøyen Collection and the Buddhist Manuscripts from Afghanistan

The Schøyen Collection is allegedly the largest private collection of manuscripts in the world to have been assembled in the 20th century. According to its Internet representation, it contains 13,500 accessions from all over the world, spanning more than 5,000 years.[4] The owner of the collection, the Norwegian businessman Martin Schøyen (born in 1940), started to purchase manuscripts in 1955 at the age of fifteen, but acquired most of his collection at auctions after 1985, collecting especially examples of early writing.[5]

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[3] Ali & Coningham 2001: 31.
[4] http://www.nb.no/baser/schoyen/intro.html (accessed September 18, 2005).
[5] Bjørhovde 2000a; Shanks 2002b.

The collection of manuscripts from Afghanistan is one of the jewels of the Schøyen Collection (Plate 62). The manuscripts were allegedly stored in a cave in or near the Bamiyan Valley after an original collection was destroyed following the Muslim invasions of the eighth century, but then rediscovered in the early 1990s.[6] Schøyen purchased the first 108 fragments from this find in 1996 through the London manuscript dealer Sam Fogg. Acquisitions continued from 1997 onwards, and by the year 2000 the collection contained about 5,000 fragments (ranging in size from two cm^2 to entire manuscript leaves) and 8,000 micro-fragments.[7] The collection has continued to grow since then.[8] A few complete manuscripts are represented,[9] but the fragments can only have been part of a monastery library which would have contained 1000 or 1400 or more manuscripts.[10] Hence, the Schøyen Collection contains a considerable number of manuscripts from Afghanistan, and compares favourably with, for example, the British Library's purchase in 1994 of twenty-nine bark scrolls.[11]

The Afghan manuscripts are written on palm leaves, birch bark and vellum, and apart from the main genres of Buddhist literature, there are letters, trade contracts and medical texts. Their dates range from the late first to early eighth century A.D. A few of the manuscripts are written in Kharosthi (a script that died out in ca. 500 A.D.), but most are in Brahmi, the ancestor of later Indian writing systems, while the language is mainly Sanskrit with a few examples in Bactrian.[12] The manuscripts are an important source of information for understanding the development of Buddhism in India, and its spread and flourishing along the Silk Road.[13] Due to their age and importance, since 1996 the British Library and the Schøyen Collection

[6] Braarvig 2002b: 58.

[7] Braarvig 2000: xiii–xiv.

[8] Braarvig 2002a: xiii. Other numbers are also given, such as 10,000 fragments (Matsuda 2000: 100), but also 2,000 sizeable fragments (Braarvig 2002b: 60), while the website of the Schøyen Collection estimates 5,000 leaves and fragments and ca. 7,000 micro-fragments (http://www.nb.no/baser/schoyen/5/5.19/index.html, accessed September 18, 2005).

[9] Braarvig 2002b: 60.

[10] http://www.nb.no/baser/schoyen/5/5.19/index.html (accessed September 18, 2005).

[11] Cf. Salomonsen: 1999.

[12] Braarvig 2002b: 59–60.

[13] *Op. cit.*: 57.

manuscripts have been termed 'the Dead Sea Scrolls of Buddhism'.[14] Hence, it has been an important task for an international research group to study and publish the Schøyen manuscripts.

Legitimizing Ownership in the Public Debate

The Schøyen Collection and the Buddhist manuscripts from Afghanistan achieved public prominence after October 2000 when the Norwegian National Library released on-line an Internet site presenting selected objects from the collection, which currently documents ca. 650 objects.[15] Schøyen also let it be known at that time that he intended to sell his entire collection, hopefully to the Norwegian State, and several officials and scholars started to lobby for its purchase. Initially, there were few objections to this pending Norwegian ownership, but my colleague Christopher Prescott and I began to question Schøyen's ownership and the potential involvement of the Norwegian State, becoming increasingly critical as the debate evolved.[16] At first, I envisioned one of two situations:

1. The Schøyen Collection would prove that it is the legitimate owner of the Afghan manuscripts, for example by providing the provenance of the manuscripts, including details of who had sold them and who had previously owned them, and also evidence that the relevant authorities acknowledge his ownership. Any objection to his ownership would then be unfounded.

2. The Schøyen Collection would admit the legal and ethical problems of claiming ownership of cultural objects taken out of a country in wartime, and would establish a dialogue with the relevant authorities to resolve the issue.

However, neither of these two situations materialized, but from the debate that arose from Schøyen's ownership of the manuscripts, at least two things can be learned:

1. It is possible to change the public view of Western ownership of cultural objects taken out of Afghanistan from a positive one to

[14] E.g. CAS 2001; Shanks 2002b, 2002a.

[15] http://www.nb.no/baser/schoyen/ (accessed September 18, 2005).

[16] Omland & Prescott 2002b, 2002a, 2003b, 2003a, 2004a, 2004b; Prescott & Omland 2003, 2004; Omland 2002–2005.

a much more critical one. Prescott and I monitored the debate, disseminated information through an Internet site, and followed this up by writing a few articles. Journalists also started their own investigations, and the debate became especially fierce after the Norwegian Broadcasting Company (NRK) televised a critical documentary about the Schøyen Collection in September 2004. As a result, by September 2005, the Afghan manuscripts in the Schøyen Collection had been discussed in most major newspapers (including two full front-page coverages and two editorials), journals, on several occasions on the national TV evening news, in various radio programmes, a TV documentary, two seminars, and in Parliament on December 1st 2004. The debate even reached the foreign media.[17] Questions were also raised about the provenance of other objects in the Schøyen Collection, particularly about whether objects from Iraq had been taken out after the UN's 1990 imposition of trade sanctions, which in Norway can lead to a three-year jail sentence. In the wake of the debate, attention has also been focused on other collections that have purchased manuscripts from Afghanistan, such as the British Library's 1994 acquisition of the Kharosthi scrolls.[18] In 2005, because of cooperation between the Schøyen Collection and academic researchers, the University of Oslo and University College London both independently convened ethics committees to decide guidelines for research on unprovenanced material.

2. The Schøyen case also shows how difficult it is to facilitate the return of cultural objects removed from a country in wartime.[19] In the wake of the debate, three states have claimed—or are considering claiming—the return of objects in the Schøyen Collection (Afghanistan, Egypt and Pakistan), while the international organization AFROMET works for the return of the 1868 booty from Maqdala, of which one manuscript is also held in the Schøyen Collection.[20] One positive outcome is that in 2005 the Schøyen Collection did return ca. 200–300 manuscript fragments to Pakistan and a few fragments probably belonging to the National Museum of Afghanistan furthermore called the Kabul Museum. Although the Schøyen Collection still

[17] E.g. Alberge 2002; Bailey 2002.
[18] E.g. Alberge 2002; Bailey 2004; cf. Salomonsen 1999.
[19] Clément 1996.
[20] http://www.afromet.org/ (accessed September 18, 2005).

defends its ownership of the bulk of the Afghan material, it states on its website that 'clarification about a future return of original manuscripts is an ongoing process'.[21]

Furthermore, although public institutions have cooperated with the Schøyen Collection and—I would argue—have participated in legitimizing its ownership, that is now changing. Rightly enough, the Norwegian government stated in 2002 that it did not intend to purchase the Schøyen Collection, mainly due to its cost. Then, in September 2004, the vice-chancellor of the University of Oslo stopped research on the Buddhist manuscripts until important issues had been resolved. Officials and researchers who had earlier been lobbying for a Norwegian purchase are now also disassociating themselves from the Schøyen Collection. However, these decisions were only taken after fierce debate in the media and the National Library still cooperates with the Schøyen Collection.

Despite this heated debate, the Norwegian government is unwilling to consider foreign claims for return because of legal obstacles and the fact that the Schøyen Collection is privately owned.[22] The Schøyen Collection has justified its ownership of the bulk of the Afghan manuscripts by using arguments that are often applied in other cultural property controversies,[23] such as:

1. The rescue argument
2. The world heritage argument
3. The scholarly access argument
4. A means-end argument

In what follows, an idea is presented of how the ownership of cultural objects from Afghanistan is being *publicly* debated in a foreign (non-Afghan) context, although this public debate does not give a complete picture of the views and the roles of the parties involved. I would also emphasize that I do not support the principle that *all* cultural objects in Western collections should be returned to their countries of origin, and I do think that 'world museums' have an important didactic role. I also regard issues concerning the ownership of objects removed in the 19th century (e.g. the Elgin marbles) to be different

[21] http://www.nb.no/baser/schoyen/intro.html (accessed September 18, 2005, probably added to in early 2005).

[22] Letter dated October 29, 2003, from the Norwegian to the Afghan Minister of Culture.

[23] E.g. Warren 1989: 2–11.

from those in the case of the Afghan manuscripts. That having been said, objects recently removed from a country in wartime should be returned or else their status should be clarified with the relevant authorities.

The Rescue Argument

The Schøyen Collection's main justification for its ownership of the manuscripts found in Afghanistan is that it allegedly rescued them from the Taliban. This rescue argument raises two questions: (1) Did the purchases prevent the manuscripts from being destroyed? (2) If so, does it give the Schøyen Collection a right to own the manuscripts?[24]

Were the Buddhist Manuscripts Rescued?

The Schøyen Collection gives several varying accounts of the purchase of the Buddhist manuscripts. The best known, referred to in several media reports in October 2000 and November 2001, is that after the Schøyen Collection's first purchase of manuscripts in 1996 (from Sam Fogg in London), it rescued the other ones from destruction at the hands of the Taliban. Schøyen claims that Buddhist refugees found the manuscripts in a cave, but when the manuscripts were threatened with destruction by the Taliban, he was asked by people in Pakistan to save them. In response, he organized and paid for a dramatic rescue operation, with people risking their lives by bringing the manuscripts on donkeys over the Hindu Kush Mountains.

This lively and 'romantic' story was challenged in 2002, and we asked if it was merely a flattering portrayal of a smuggling story.[25] At the time we could only ask questions, but in 2003 NRK journalists started investigating the matter and discovered a story that undermines the rescue version.[26] Schøyen himself refused to give information, but, after interviewing researchers, dealers, smugglers and clandestine diggers in London, Afghanistan and Pakistan, the journalists argued that:

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[24] *Op. cit.*: 3–4.

[25] Omland & Prescott 2002a: 5.

[26] NRK 2004; the following is also based on documents in Pressens faglige utvalg 2004; Flyum 2005.

1. Several of the manuscripts were probably discovered in Afghanistan before the Taliban came to power. One theory, proposed in 2003 by the Japanese archaeologist Yamauchi working in Bamiyan, is that the manuscripts came from a cave in the village of Zargaran, discovered after an earthquake in 1993 when the local people found manuscripts flying through the air, and they were later smuggled via Pakistan to London. According to an informant interviewed by the NRK journalists, one of the smugglers of the manuscripts is a Pakistani criminal living in London, a notorious drugs and weapons smuggler. This smuggler had contacts with the Taliban regime and supplied it with weapons in return for antiquities, dealing in, among other things, objects from the Kabul Museum. Because of this information, NRK then started to investigate whether any objects from the Kabul Museum were held in the Schøyen Collection.

2. The investigations by the NRK journalists further revealed that Schøyen and the Collection's researchers found out in 1998, or possibly earlier in 1997, that two fragments had already been published as part of the Hackin Collection stored in the Kabul Museum.[27] The researchers also admitted that possibly four more fragments could have come from the Museum. The NRK journalists supported their findings with an article written by the Japanese Professor Yamada. Professor Yamada had heard one of the researchers in a lecture in Japan confirming that one of the Schøyen Collection's fragments had already been published, and he aired his criticism soon afterwards:

> Now there is no longer any need to believe the story about how an Afghan refugee accidentally discovered the manuscripts in a cave near Bamiyan and brought them to Peshawar. Those manuscripts were very possible part of the collection formerly stored in the Kabul Museum. Moreover, the existence of that cave near Bamiyan is also doubtful.[28]

3. Some of the Schøyen Collection's recent acquisitions did not actually come from Afghanistan at all, but were obtained from clandestine excavations in the Gilgit area of northern Pakistan. The argument proposed by NRK is that Schøyen's purchases of Buddhist manuscripts caused a demand for such manuscripts that stimulated clandestine excavations in, among other places, Pakistan. Furthermore, according to informants interviewed by NRK, the British Library opened

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[27] Lévi 1932: Bamiyan 1 and 6b.

[28] Yamada 2002: 113.

up the Western market by placing a commercial value on such manuscripts with its 1994 purchase of the Afghan Kharosthi fragments.[29]

These important facts were not communicated to the public in 2000 and 2001 when Schøyen told the rescue story, nor in 2002 when criticisms of his purchase were voiced, and also not in September 2003 when the Afghan government claimed the manuscripts' return. However, Schøyen admitted several facts when they were revealed to the public in September 2004, though arguing that the NRK journalists' focus on the alleged rescue from the Taliban was merely a distraction, and that the manuscripts had been in danger even before the Taliban had come to power. Schøyen was then asked why he had not corrected the impression that he had rescued the manuscripts from the Taliban sooner; he answered that he had never been to Afghanistan or Pakistan and that his rescue operation had consisted of an offer he had circulated in London of a fixed price for each square inch of Buddhist manuscripts. Schøyen confirmed that two of the manuscripts did in fact come from the Kabul Museum, but argued that he had always intended to return them (although a letter dated July 7, 2004, in which he does offer to return them, was written just after the journalists first started to ask about these manuscripts). He also confirmed that around 200–300 fragments had possibly come from Gilgit in Pakistan.[30]

Although only a few manuscripts of the Schøyen Collection's 'Bamiyan collection' come from the Kabul Museum and Pakistan, the fact that they do throws doubt on Schøyen's claim to have rescued the collection. Although he has presented a few statements from alleged witnesses to the discovery and rescue of the manuscripts, there is still a need for an impartial inquiry into the circumstances of their discovery, and of their subsequent purchase by the Schøyen Collection.

Does a Rescuer Have a Property Right to the Rescued Property?

Although it is not certain that the manuscripts were rescued, the Schøyen Collection has still preserved them and managed to assemble

[29] Cf. Salomonsen 1999.

[30] Andreassen 2004a. The Schøyen Collection probably included this version on its website in early 2005 (http://www.nb.no/baser/schoyen/5/5.19/index.html, accessed September 18, 2005).

a collection that could otherwise have been dispersed among several collectors, which raises the question of whether the 'rescuer' has a valid claim to them. Several considerations must be taken into account when assessing the legitimacy of this claim:

1. Proper regard should be given to national and international laws and to relevant codes of professional ethics and practice. Until 2002, most media and Norwegian officials ignored the appropriate international conventions (UNESCO 1954, UNESCO 1970; UNIDROIT 1995) and the ICOM code of museums ethics which provides guidelines for the correct acquisition of cultural objects.[31] Afghan law (see also Annex II) was not considered either.

Although clear ethical standards exist, they are not always observed. The Schøyen Collection can possibly claim that it purchased the manuscripts in 'good faith', but the discovery in 1998 that some manuscripts came from the Kabul Museum should have led to a more cautious policy by acquisitions. Furthermore, the Norwegian National Library—that publishes the Internet catalogue, earlier stored parts of the Schøyen Collection, and considered purchasing it—is not a member of ICOM. A legal problem is that Afghanistan had not ratified the relevant international conventions at that time.[32] Although Norway has ratified two of the conventions,[33] and is currently in the process of ratifying the third (UNESCO 1970), the late ratifications do not have retroactive effect back to the period when the Schøyen Collection purchased the manuscripts.[34]

2. The preservation through ownership argument shows the hypocrisy of Western responses to the destruction of the Afghan cultural heritage. The Taliban's destruction is condemned, while the Western purchase and ownership of smuggled objects is praised, and the destructive effect of the commercial market is ignored. Many archaeological sites in Afghanistan (and in other places in the world) would have been left untouched if there had been no market for their contents,[35] and it is doubtful that purchased archaeological material from Afghanistan

[31] ICOM 2001/1986: §§ 3.2. and 4.4; cf. Boylan 1995; Perrot 1997; Renfrew 2001: 68–74.
[32] UNESCO 1954, UNESCO 1970; UNIDROIT 1995.
[33] UNESCO 1954; UNIDROIT 1995.
[34] UNIDROIT 1995 entered into force for Norway in March 2002; according to the Ministry of Culture it is currently uncertain when UNESCO 1970 will enter into force.
[35] Brodie & Gill 2003: 38.

was actually saved from the Taliban. On the contrary, the Schøyen Collection probably stimulated the market when it demanded more manuscripts.

3. Most countries in the world face the challenge of preserving cultural heritage, but this does not give individuals or foreign institutions the right to remove it and claim ownership. Nevertheless, it can be important to take objects out of a country in order to protect them from damage or destruction during wartime, in some cases even to purchase objects to prevent their trafficking on the international art market, even though it can have the unwelcome effect of stimulating looting. Nevertheless, the major principle is that such objects should be returned after the war's end. However, the Schøyen Collection's ownership claim vitiates such efforts, and when it was said to Schøyen that Afghan preservation societies acquired objects in order to return them, he argued that 'we must distinguish between the manuscripts and other objects of art that have varying degrees of risk'.[36]

4. The contribution that Schøyen has made to the preservation of the material integrity of these manuscripts is in doubt. Their clandestine removal from the original site and their breakage into small pieces for sale and export to London will have caused substantial damage, and conservators have further questioned the apparent lack of appropriate storage and handling by the Schøyen Collection.[37]

However, the ownership of cultural property taken out of a country in wartime is more a question of ethics than of law, bringing us to the well-rehearsed question: who actually owns culture?

The World Heritage Argument

Debates about the ownership of cultural objects often raise the grand question: 'who owns culture'? One view is that some objects are of such importance that everyone in the world has a stake in them, and in some cases this view can be used as an argument for the unrestricted private ownership of cultural objects.[38] The Schøyen Collection tries to justify its ownership on these grounds, stating in the introduction to its Internet catalogue:

[36] Anker 2002a: 29, translation by the author.
[37] Conservator Jeremy Hutchings pers. com.
[38] E.g. Merryman 1986, 1996.

> The uniqueness and importance of the materials in The Schøyen Collection go far beyond the scope of a private collection, or even a national public collection. These MSS [manuscripts] are the world's heritage, the memory of the world. They are felt not really to belong to The Schøyen Collection and its owner, who is the privileged and respectful keeper, neither do they belong to a particular nation, people, religion, culture, but to mankind, being the property of the entire world. In the future The Schøyen Collection will have to be placed in a public context that can fulfil these visions.[39]

Although parts of the world's cultural heritage are of global importance, the concept of 'world heritage' is ambiguous and raises several ethical considerations, even as it is used in the strongest instrument communicating the idea: the UNESCO 1972 World Heritage Convention.[40] However, the use of the world heritage concept as a justification for private ownership must be critically assessed.

1. The world heritage concept is used by the Schøyen Collection to give legitimacy to private and usually foreign appropriation of what might be a country's publicly owned cultural heritage, and the academic question 'who owns culture' then functions to veil this appropriation. The term 'cultural heritage' (with its implication of stewardship) is in international usage increasingly replacing the term 'cultural property' (with its implication of ownership).[41] However, in the Schøyen case does the use of the term 'world heritage', with its emphasis on stewardship, act to conceal Schøyen's own property interests?

2. The concept of world heritage acts to bestow prestige on whoever owns it. When Norwegian ownership of the Schøyen Collection was lobbied in 2001, one argument used was that it would put Norway on the world map of culture, and the then Minister of Fisheries (!) stated in March 2002 that 'it is a jewel we should keep in Norway'.[42]

3. In 2003, the Bamiyan Valley was rightly enough designated a UNESCO World Heritage site, but the World Heritage designation did not give property rights to the Schøyen Collection. Rather, the importance of Bamiyan was recognized internationally and it became an international duty to preserve the site. Bamiyan was placed on the List of World Heritage in Danger, not only because of the Taliban's destruction of the monumental Buddhas, but also because

[39] http://www.nb.no/baser/schoyen/intro.html (accessed September 18, 2005).
[40] Omland in press.
[41] Cf. Prott & O'Keefe 1992; Brodie 2002: 9–10.
[42] Kibar 2002, translation by the author.

of the illicit excavations that have been taking place there.[43] *In situ* preservation of Bamiyan's heritage is therefore of international concern and illegal removal represents a theft of history that compares to the Taliban's destruction.

4. If the manuscripts are a world heritage, why is their care by the Schøyen Collection more legitimate than by Afghan museums? The Afghan government asked the Norwegian government in September 2003 to help facilitate the return of the manuscripts arguing that 'the Afghan authorities consider the manuscripts to belong to the people of Afghanistan'.[44] The Schøyen Collection responded:

> Of course they can have a go at it, but this changes nothing. The manuscripts have hardly any ties to Afghanistan, apart from the fact that they were found there. Most of them were written on palm leaves in India—and as everyone knows there are no palms in Afghanistan. Furthermore, there was no Afghanistan when they were written. The country has also changed religion from Buddhism to Islam. Buddhism isn't very relevant there anymore since the original Buddhists fled (. . .).[45]

These arguments can also be used against the Schøyen Collection's ownership: the manuscripts have absolutely no ties to Norway, apart from the fact that they were bought by a Norwegian collector, there was no Norway either when they were written, and Schøyen is a Christian, not a Buddhist. Nevertheless, the Schøyen Collection justifies its ownership by arguing that collections are safer in stable countries in the West, although adding (probably in early 2005) the last sentence in this statement specifically quoting the Collection's website presented via the Norwegian National Library:

> The Buddhist monasteries and their MSS were mostly destroyed in the eight c. by Muslims, and the remaining to a greater part destroyed by Taliban recently, including the 2 giant statues of Buddha that were blown up in 2001. The last 2000 years the area has been regularly conquered, torn and shaken between its strong neighbours to the East, North, and West, and internally torn apart by civil wars. There is sadly enough a considerable probability that history will repeat itself in the far future as well. One has to draw the conclusion that Afghanistan is not the right and safe home for these MSS in the future, even if

[43] The World Heritage List, Description (http://whc.unesco.org/pg.cfm?cid=31&id_site=208, accessed September 18, 2005).

[44] Letter dated September 18, 2003, from the Afghan to the Norwegian Minister of Culture.

[45] Kibar 2003a, translation by the author.

> UNESCO's conventions direct such MSS to be returned to the National state. However, (. . .) consideration and clarification about a possible future return of these manuscripts is an ongoing process.[46]

I therefore conclude that in this case the world heritage concept conceals ownership interests and also facilitates Norwegian national interest in the Buddhist manuscripts, while excluding an Afghan interest.

The Scholarly Access Argument

A third argument often used to justify Western ownership is that scholarly access should be allowed to important historical material, even when its provenance is not known, and unrest in countries such as Afghanistan and Iraq certainly can give scholars in other countries access to hitherto unknown research material. The view held in this article is that researchers, who gained access to such research material through cooperation with the Schøyen Collection, also gave legitimacy and support to Western ownership of the manuscripts. The reader must still bear in mind that when my colleague Christopher Prescott and I started to raise questions in 2002 about the Schøyen Collection, we aimed at balancing our critique by giving credit to the Schøyen Collection for allowing researchers to access the Collection's manuscripts. However, as time went on, we became increasingly more critical of the researchers' involvement and more concerned about the general ethics of publishing and researching unprovenanced material, issues that will be discussed next before proceeding to consider the public involvement in the Collection.

The Ethics of Publishing and Researching Unprovenanced Material

The ethics of researching unprovenanced material, i.e. material lacking or with a dubious ownership history, is currently an internationally discussed topic.[47] The view defended here is that the responsibility of researchers is not only to study important historical material, but also to ensure that their research proceeds within an agreed ethical

[46] http://www.nb.no/baser/schoyen/5/5.19/index.html (accessed September 18, 2005).

[47] E.g. Wylie 2000; Brodie et al. 2000: 46–47; Brodie & Gill 2003: 39–40; Renfrew 2001: 74–77; Lundén 2004: 219, 226–234.

framework. This means that the research material should have been obtained (1) according to national and international laws, and (2) according to appropriate scientific standards.[48] Hence, the involved parties must try not to demand that material be removed from a site or a country in conflict with scientific standards or with national or international laws.

In view of this ethical stipulation, several archaeological journals, such as *American Antiquity*, now prohibit the publication of material that is 'recovered in such a manner as to cause the unscientific destruction of sites or monuments; or that have been exported in violation of the national laws of their country of origin'.[49] On the contrary, researching and publishing such material in private collections can be viewed as one way of authenticating and providing provenance for the objects, thus increasing the value and saleability of a private collection,[50] with the possible effect of stimulating more looting and illegal export.

Still, these ethical codes are difficult to apply since the Schøyen Collection is private, while the main scholars researching objects in the Collection are not archaeologists or museum workers. The ethics of publishing unprovenanced material must certainly serve several needs, but any such research and publication still requires ethical awareness of the problem by those involved. The National Library and those researching the manuscripts in the Collections have now considered the ethical issues, but only after public criticism of their involvement.

The National Library and the Schøyen Collection

Official involvement in the Schøyen Collection has mainly been through the Norwegian National Library, and its former director, Bendik Rugaas, argued strongly in public during the years 2000–2002 that the Norwegian state should buy the entire Schøyen Collection. At the same time, the National Library cooperated with the Schøyen Collection by launching in October 2000 an Internet site presenting parts of the Collection on the webpage of the library. Although the

[48] E.g. ICOM 2001/1986: §§ 3.2, 8.6, 2004: §§ 2.2–2.4, 4.5, 5.1; EAA 1997: § 1.6.
[49] SAA 2003: 5.
[50] Prott 1995: 60.

intention of this presentation was to give the public access to a selection of the magnificent objects in the Collection, currently ca. 650, the website can also be interpreted as a 'sales catalogue', validated and supported by a Norwegian public institution. The estimated value of the Schøyen Collection rose after the launch of the website, and while in October 2000 Schøyen estimated its value to be 600 million Norwegian kronor (then ca. 65 million USD),[51] the estimated value two years later was 850 million Norwegian kronor, or ca. 110 million USD.[52] Thus, the National Library would have needed to pay 250 million Norwegian kronor more for the Schøyen Collection two years after the launch of the website.

This cooperation between the National Library and the Schøyen Collection was the target of strong criticism, especially from the fall of 2004. Among other things, it was revealed that the Library covered the running costs of the website, and that the Library did not check the provenance of objects in the Collection because Schøyen had editorial responsibility.[53] The National Library for its part continued to defend the cooperation, getting Parliamentary support in December 2004 from the then Minister of Culture, arguing that the question of provenance and ownership was not relevant for a library presenting only *digital images* and not storing or purchasing the manuscripts themselves.[54] However, in a February/March 2005 agreement between the Schøyen Collection and the National Library, the Library stated that the Collection would document the ownership histories of the presented objects, although the documentation would not be checked by the Library.[55]

In April 2005, the Norwegian National Committee of ICOM asked the National Library to remove the Schøyen Collection website until the status of several of the acquisitions had been clarified. The Library now received support for its web presentation in a report it commissioned from the lawyer Jon Bing. Interestingly, Bing writes in all

[51] Bjørhovde 2000b.

[52] Anker 2002a: 29. The estimate of 850 million Norwegian kronor and 110 million USD is also given in several later sources, e.g. (Kibar 2003b) and in a letter dated August 25, 2004, from Schøyen's lawyer Harald Arnkværn to NRK (available on http://www6.nrk.no/programmer/brennpunkt/brev250804.pdf, accessed September 18, 2005).

[53] Anker 2004: 13–14.

[54] Haugland 2004.

[55] Bing 2005: 5.

honesty that his knowledge of cultural property issues is superficial and was acquired through his work on the report,[56] a shallowness which is visible in the document. The report primarily discusses the copyright act, and Bing admits when discussing international treaties that his relevant knowledge is limited and is based on searching a legal database,[57] even expressing a slight uncertainty as to whether or not Norway has ratified the UNESCO 1970 Convention.[58] Bing seems to be unaware of UN resolution 1483 of May 2003 confirming trade sanctions against Iraq and does not know that questions have been asked about objects on the website that might have been taken out of Iraq in violation of these sanctions.[59] He does not discuss paragraph 4.5 of the ICOM Code of Ethics that states that museums 'should avoid displaying or otherwise using material of questionable origin or lacking provenance. They should be aware that such displays or usage can be seen to condone and contribute to the illicit trade in cultural property'.[60] Bing thinks there are no foreign claims for objects in the Schøyen Collection,[61] revealing that he does not know about the Afghan claim of September 2003. Not surprisingly, Bing concludes his report by giving his support to the cooperation between the National Library and the Schøyen Collection.

Although the Minister of Culture and the lawyer Jon Bing support the cooperation between the National Library and the Collection, the argument maintained here is that the cooperation is an example of how public institutions in the West give official support to collectors acquiring cultural objects from Afghanistan and other countries. The Library has been unwilling to consider the ethical problems of cooperating with the Collection, but continues to give public and social acceptance to an unethical trade and, I argue, indirectly supports the Schøyen Collection's ownership of the manuscripts.

Researchers and the Schøyen Collection

A second important cooperation has been the strong involvement of researchers with the Schøyen Collection. This involvement is difficult

[56] *Op. cit.*: 17.
[57] *Op. cit.*: 11, 13.
[58] *Op. cit.*: 12.
[59] Anker 2003; Prescott & Omland 2003; NRK 2004.
[60] ICOM 2004: § 4.5.
[61] Bing 2005: 20.

to assess, because of, amongst other things, the contradictory statements that have been made in public about this cooperation and the fact that the researchers have—in several cases positively—changed their views during the debate. Although the Schøyen Collection justifies the purchases of the Buddhist manuscripts arguing they 'were acquired to prevent destruction, after requests from Buddhists and scholars',[62] researchers both associate themselves with and dissociate themselves from Schøyen's purchases.

Jens Braarvig, Professor of Religious Studies at the University of Oslo, has directed the international research on the Afghan manuscripts, but in public has given ambiguous statements about the involvement of the researchers. On one occasion, Braarvig argued that he was surprised this important material could 'fall down' in Norway, and that he had felt inspired to take responsibility for it.[63] He has argued that he only conducts research on the material, and questions of ownership are not his concern.[64] He has also dissociated himself from the Schøyen Collection saying he is not its spokesperson or curator, and welcomed inquiries into its legal status.[65] However, in the publications of the Buddhist manuscripts, the researchers strongly acknowledge the Schøyen Collection and its commitment to make the material available for research.

International research on the Buddhist manuscripts was initiated in January 1997 after Braarvig heard in December 1996 about Schøyen's first purchase of 108 fragments.[66] Thus, the contact between the Collection and the researchers was established before the Schøyen Collection had acquired the bulk of its manuscripts,[67] and it is relevant to ask whether the research caused a demand for more purchases of manuscripts. Furthermore, the first 108 fragments acquired by Schøyen had been described before purchase for the London dealer Sam Fogg by a researcher who afterwards became part of Braarvig's research group.[68]

[62] http://www.nb.no/baser/schoyen/5/5.19/index.html (accessed September 18, 2005) (cf. also Anker 2002a: 29; Shanks 2002b: 68; Arnkværn and Nicolaysen 2004).
[63] NRK 2004.
[64] In Anker 2002b: 28.
[65] In Toft 2004b.
[66] Braarvig 2000: xiii.
[67] *Op. cit.*: xiii–xiv; Braarvig 2002a: xiii; Matsuda 2000: 99–101.
[68] Braarvig 2000: xiii–xiv.

In March 2003, Braarvig established The Norwegian Institute of Palaeography and Historical Philology (PHI), which studies and coordinates the research on various manuscripts in the Schøyen Collection,[69] and he has also set up a publishing company, Hermes Publishing, to publish this research.[70] Schøyen became a member of the Board of the Foundation of Braarvig's Institute, while the monograph series that is publishing the manuscripts is dedicated to 'Martin Schøyen in recognition of his tireless efforts to make ancient scriptural materials available to the scholarly world'.[71]

The cooperation between the researchers and the Schøyen Collection has been criticized, especially after it was revealed in September 2004 that for six years they had not communicated to the public that some of the manuscripts came from the Kabul Museum. As a result, the vice-chancellor of the University of Oslo provisionally stopped the research on the Buddhist manuscripts and terminated a rental agreement with the Schøyen Collection for storing the manuscripts in the University Library. He then requested the National Committees for Research Ethics in Norway to give guidelines for the conduct of institutions and the individual researchers gaining access to material of unknown or uncertain provenance.

The ethics of researching material of unknown or uncertain provenance were discussed at a seminar on March 17th 2005, where Braarvig also made it known that he had resigned as research director of the Collection. The Ethics Committee presented some general advice to the University on June 30th 2005,[72] among other things stressing the importance of 'due diligence' and that researchers and institutions have a duty to report material that has been illicitly acquired or has an uncertain provenance. The committee further suggested the establishment of a national unit that should be responsible for such matters. The recommendations which made up the advice were controversial, however, because they were heavily influenced by the research ethos and the Ethics Committee disagreed with the zero tolerance expressed in ethical codes such as ICOM.[73] Merely

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[69] http://folk.uio.no/braarvig/phi/index.html (accessed November 1, 2004, under reconstruction September 18, 2005).

[70] http://www.hermesac.no/ (accessed November 1, 2004, under reconstruction September 18, 2005).

[71] Braarvig 2000, 2002a.

[72] NESH 2005.

[73] ICOM 2001/1986, 2004.

reporting irregularities seems to be considered sufficient to allow the research and publication of unprovenanced material. The committee also objected to the view that researching and displaying unprovenanced material increases its commercial value, mainly because it could not find any studies to support this view. Still, the committee acknowledged that researchers and institutions work in society and that alone should prevent them from giving legitimacy and social recognition to collectors of dubious ethical conduct.[74]

The Ethics Committee was not asked to investigate the provenance of manuscripts in the Schøyen Collection, nor the role of researchers, but interestingly it concluded its report by criticizing the University of Oslo for provisionally stopping the research in response to a media debate, stating that this act violated autonomous research. The committee instead suggested that the University should have investigated the status of the manuscripts and notified the authorities about their uncertain provenance and ownership history.[75] This statement was used in most media coverage to support the research conducted on the Schøyen Collection, while the well-founded recommendations the committee actually gave in order to improve research ethics were hardly mentioned.[76]

Researchers Legitimizing Ownership?

Although the Ethics Committee verged on praising the cooperation between the Schøyen Collection and the researchers, in what follows I will take a critical look at how the researchers have approached the question of the ownership of the material they have gained access to.

The contact between the researchers and the Schøyen Collection is not entirely a negative thing, as the primary value of the Buddhist manuscripts is their knowledge potential, but the contact is still problematic if a demand for research material has led to the acquisition of material of uncertain legal and ethical status. No investigations into this matter have been conducted, and it is interesting to note that despite the initial criticism of the Schøyen Collection's claimed ownership,[77] the researchers continued to support the purchase of

[74] NESH 2005: 6–7.
[75] *Op. cit.*: 10.
[76] E.g. Hatlevik 2005.
[77] Omland & Prescott 2002b.

'fresh manuscripts' arriving in the West 'amid the political and military turmoil in this region'.[78] Referring to the obligation to carry out research, the researchers also disputed the criticism of the Schøyen Collection's ownership:

> This entire process raises complex economic and political issues, to say nothing of its moral dimensions. Indeed, since the first volume of this series appeared, the Schøyen Collection as a whole has become the focus of a certain public interest in Norway, which is only natural given the recent course of events. The collection remains in the possession of Martin Schøyen himself, having been acquired by him, but some have questioned his ownership on the grounds that the states in which the materials were originally found may have a moral if not a legal claim on such private collections as this one. These are frequently rehearsed arguments, in which the so-called Elgin Marbles remain emblematic. Our project group believes that scholars have the duty to work on and publish any such important historical materials (. . .).[79]

In this quotation, the scholarly duty to conduct research serves to support the Schøyen Collection's ownership, but reference to the case of the Elgin Marbles distorts the debate by moving the focus off the Schøyen Collection's purchase of the manuscripts in the 1990s and on to the entirely different issue of cultural objects removed in the 19th century. In several other cases Braarvig has also supported Norwegian ownership of the manuscripts. For example, in November 2001, a journalist asked in a radio interview for his opinion about the removal of manuscripts from Afghanistan and if they would be returned at a later date. According to Braarvig, the manuscripts were rescued from a country that had been bombed to pieces and so now has a poor cultural disposition, and he concluded that the manuscripts would be best preserved in collections outside Afghanistan, and that the Norwegian state should buy them.[80] Braarvig argued in a later interview:

> For the Afghans these manuscripts are not worth anything, the historical treatment of them shows this. These are for us important historical sources that must be preserved and viewed as part of our common heritage.[81]

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[78] Braarvig 2002a: xiii.
[79] Braarvig 2002a: xiii.
[80] Moxnes 2001.
[81] Anker 2002b: 28, translation by the author.

From this perspective, it is the European preservationist tradition alone that is able to protect the Afghan cultural heritage (although Braarvig also acknowledges that the Arabs took care of Western science until the Renaissance):

> At the risk of not being absolutely politically correct, I dare to assert that in our day and age it is the European intellectual tradition that is most concerned about safeguarding ancient cultural treasures.[82]

By arguing that the Afghans cannot preserve their cultural heritage, the connection of the manuscripts to Norway is strengthened:

> It's true that the Afghan part of the Schøyen Collection was found in Afghanistan, but that's not where the objects come from. There are hardly any Buddhists in today's Afghanistan, but in Norway they in fact amount to 15,000.[83]

However, as the debate evolved, Braarvig withdrew his earlier statements and now supports a return of the manuscripts. At a conference in February 2004, he argued:

> (. . .) that the Norwegian state should buy the collection and use it for a cultural dialogue with Afghanistan, to build up institutions in Afghanistan which could take care of such cultural heritage, as well as helping to educate Afghan specialists in the field. Thus Norway could contribute towards the preservation of global heritage in its right geographical context and at the same time help to build a new cultural identity in Afghanistan—once the area becomes a hub of world culture again.[84]

Although the researchers now support Afghan ownership of the manuscripts, and have initiated contact with various bodies in order to solve the problem of ownership, the above quotations indicate that the researchers considered the various ethical issues only in response to their critics. The researchers were mainly guided by their perceived obligation to execute research and they expressed their loyalty to the Schøyen Collection for providing the research material, but not to Afghanistan where the manuscripts came from. Their loyalty was especially visible during the fall of 2004 when the researchers defended their research and supported their cooperation with the Schøyen

[82] CAS 2001: 4.
[83] CAS 2002.
[84] Braarvig 2004: 37–38.

Collection by arguing for the notion of transparency and that Schøyen is a good collector.

Transparency and the Good Collector

During the fall of 2004, the researchers were criticized for not making it known to the public that some of the manuscripts in the Schøyen Collection had come from the Kabul Museum.[85] The researchers replied that the Schøyen Collection had been transparent about the fact that some manuscripts came from the Kabul Museum, and that it had always been the Collection's intention to return them.[86]

However, an apparent lack of transparency and the contradictory role of the researchers were both visible when the advice which one of the researchers had given to the Schøyen Collection during the fall of 2004 is assessed. Braarvig read in the NRK TV documentary a letter to the Kabul Museum, dated July 7, 2004, in which Schøyen writes that he will return the two Kabul manuscripts.[87] However, based on the advice of another professor in the research group, Schøyen made an U-turn in an interview published in October 2004. According to the professor, the manuscripts could have been disposed of by the Museum before it was looted in the 1990s. It was impossible to check this eventuality because the museum catalogue was damaged, and so he advised Schøyen not to return the manuscripts,[88] in contradiction to the defence offered one month earlier by other researchers that they had always intended to return them.[89] Interestingly, before the screening of the documentary, the professor had expressed his certainty that the manuscripts had been pirated from Kabul, but he still expressed his loyalty to the Schøyen Collection and tried to deflect criticism towards the British Library's acquisitions from Afghanistan:

> Martin is the third person in good faith and willing to return six fragments to Afghanistan. Martin has the right to possess of another 10,000 fragments.

[85] Omland and Prescott 2004a.
[86] Brekke & Kværne 2004.
[87] NRK 2004.
[88] Anker & Hovland 2004
[89] E.g. Brekke & Kværne 2004.

> If you do not think so, you should blast the British Library first, because the library has gotten many important Buddhist scrolls discovered in Hadda in East Afghanistan by the grave-robbing market before Martin. You can look at them in the special exhibition of the Silk Road now to be open in the British Library at Euston Road. These are UK government's possession![90]

The researchers further defended their research with other arguments: they worked on photocopies and not the original manuscripts;[91] and the international and national importance of the research placed Norway and Oslo on the world map of research excellence.[92]

While giving a good account of the looting of archaeological sites in Afghanistan and Pakistan, researchers not attached to the project have also argued that responsible collectors—such as Schøyen—play an important role in saving cultural heritage. These researchers have defined the responsible collector as one who works consciously to preserve the heritage and makes their collection available to the public. They have also argued that although the find context is important for archaeologists, it has less relevance for manuscript researchers (Fosse and Schmidt 2004). However, the notion of a 'good collector' has been much discussed by archaeologists,[93] and although private collectors can play a positive role in saving cultural heritage, it is questionable to what extent the Schøyen Collection is in this case a 'good collector'. For example, considering that the Collection has still not given detailed information about the purchases, and for years chose not to reveal the known provenance of some of the manuscripts, the responsible collector seems unfortunately in this case to be a myth.[94] This holds true even when the responsible collector argues that he or she is not interested in the monetary value of the manuscripts, as discussed below.

The Means-end Argument

The means-end argument holds that by donating the financial income from the sale of the Schøyen Collection to a humanitarian founda-

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[90] E-mail from researcher to an NRK journalist, July 12, 2004, quoted after Flyum 2005: 7.

[91] Brekke in Toft 2004a.

[92] Brekke & Kværne 2004.

[93] E.g. McIntosh et al. 1995; McIntosh et al. 2000; Tubb & Brodie 2001: 109–110.

[94] Prescott & Omland 2004.

tion, the Collection's ownership of the Afghan manuscripts is justified. Schøyen develops this means-end argument in the introduction to his website:

> The proceeds will go to The Schøyen Human Rights Foundation to give emergency aid and fight poverty in emerging nations, and to promote Freedom of Speech and Human Rights worldwide.[95]

This humanitarian dimension of the sale is also described in an American presentation of the Schøyen Collection:

> For most of his life, Schøyen was a bachelor. He married five years ago, but he and his wife have no children. So what will happen to the proceeds from the sale of the collection? It will go into a charitable foundation he has set up, the Martin Schøyen Foundation for Human Rights. Human rights is defined in the broadest possible terms—from curing diseases to protecting the environment, from ensuring freedom from gender discrimination to protecting the environment to eradicating political suppression and terrorism.[96]

Although this humanitarian foundation sounds positive, it can be asked what kind of humanitarian values it will support.

1. The Schøyen Collection supports Western and Christian values, but Schøyen's attitude towards Muslim countries seems problematic. He let it be known in March 2003 that an Islamic state had offered 110 million USD for the entire Collection, but that he had rejected the offer because he doubted that an Islamic country would be able to protect manuscripts of other religions. Stable countries in the West (including Japan) are instead more relevant places to house the collection.[97]

2. Is it humanitarian for a wealthy person in one of the richest countries in the world to buy cultural objects from a country devastated by war and then to sell them for a profit? Even if the Afghans have no interest in the cultural value of the Buddhist manuscripts, they might have an interest in their monetary value (although the monetary value of the manuscripts has been reported to be incalculable, and it has been asked how 'would you put a value on the Dead Sea Scrolls [of Buddhism]?').[98] When the critics of the Schøyen Collection were becoming increasingly more vocal during the fall of

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[95] http://www.nb.no/baser/schoyen/intro.html (accessed September 18, 2005).
[96] Shanks 2002b: 68.
[97] Schøyen in Kibar 2003b.
[98] Shanks 2002a: 31.

2004, Schøyen responded by threatening with legal action, also justifying this on humanitarian grounds. The substance of Schøyen's complaint was that if the alleged one-sided content of the NRK TV documentary became internationally known, then NRK would be held responsible if any sale of the collection did not fetch 110 million USD/850 million Norwegian kronor.[99] When asked if any legal action would be taken because of what he perceived to be defamation of character or, alternatively, because of the monetary devaluation of the collection, Schøyen answered:

> An interesting question. It is not pleasant that one's integrity is being doubted, but for people in the Third world it is not without importance if the foundation receives 850 million or 400 million kronor.[100]

However, other objections can also be raised against Schøyen's humanitarian means-end argument, in relation to who exactly benefits from the trade in Afghan antiquities. Archaeologists are increasingly aware of their responsibilities towards other interest groups, acknowledging that restrictions imposed on looting also reflect scientific control over the archaeological heritage.[101] Many local people around the world view archaeologists as looters who take artefacts but who do not bring revenue back to the local communities; these people claim in some cases to be the owners of artefacts, with the right to dig them out of sites and sell them. Archaeologists have responded to these criticisms by trying to understand looting and the local importance of the archaeological heritage.[102] In this regard, some archaeologists replace the negative term 'looter' with 'subsistence digger', defined as 'a person who uses the proceeds from artifact sales to support his or her traditional subsistence lifestyle'.[103] Studies of 'subsistence diggers' show that archaeologists have an obligation to work closely with the local communities, and that archaeologists must reflect upon their own interests.

How does this perspective apply to the Schøyen Collection?

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[99] Letter dated August 25, 2004, from Schøyen's lawyer Harald Arnkværn to NRK (available on http://www6.nrk.no/programmer/brennpunkt/brev250804.pdf, accessed September 18, 2005).

[100] Andreassen 2004b, translation by the author.

[101] E.g. Smith 2004: 89.

[102] E.g. Staley 1993; Thoden van Velzen 1996, 1999; Matsuda 1998; Hollowell-Zimmer 2003.

[103] Staley 1993: 348.

Researchers supporting the Collection have referred to local ownership of the cultural heritage, mentioning one case in Pakistan where the local community sold a Buddha statue they claimed to own.[104] The researchers also pointed out that the destruction of knowledge caused by looting is often a problem mainly for an educated elite.[105] Schøyen has used similar arguments, suggesting that the looting problem will be solved if finders are paid the fair market price of the antiquities they find—provided the authorities are notified and the sites are scientifically excavated, the finders should keep half of their finds and be free to sell them.[106] From this point of view, the Schøyen Collection's purchases are ethically correct, but there are alternative perspectives:

1. The Schøyen Collection's purchase and ownership of the manuscripts is also a scientific claim on the archaeological heritage, and the knowledge or revenue from the manuscripts is not necessarily made available to the Afghan people.

2. Although local people might have benefited economically from the first sale of the manuscripts, archaeological objects are not a renewable source, and so the supply inevitably dries up. On the other hand, preserving and presenting the objects locally can generate sustainable income, as shown by countries in the West that derive long-term benefit from the possession of great museums and collections.[107]

3. The trade in antiquities is not fair, and it does not allow poor countries to purchase cultural objects from rich countries.[108] For example, private or institutional collectors in rich countries can afford to buy the Schøyen Collection together with its Afghan manuscripts, while Afghanistan most probably cannot.

4. The Afghan antiquities trade is ethically problematic due to its support for the armed struggle.[109] For example, in the 1990s there were Mujahideen commanders involved in illegal excavations of

[104] Schmidt & Fosse 2004.

[105] Fosse & Schmidt 2004.

[106] Shanks 2002b: 68. However, the economic value of selling 'surplus' material is doubtful and collectors mainly want the best pieces (Seligman 1996), while good and complete pieces are usually displayed in museums and not kept in storages and a 'cheaper' 'surplus' material is also important for research (cf. Tubb & Brodie 2001: 107–108; Brodie 2002: 10–11).

[107] Brodie et al. 2000: 13–14; Brodie 2002: 15–16.

[108] Brodie et al. 2000: 12; Brodie 2002: 17.

[109] Brodie & Gill 2003: 38.

archaeological sites,[110] and the sale of antiquities was used to pay soldiers.[111] This trade is still a challenge to political stability:

> During the run-up to Afghanistan's October 9 [2004] presidential election, warlords have been identified as a major threat to the country's political stability. Less publicized is the fact that warlords also pose a danger to the country's cultural heritage. Government officials say warlords are looting artefacts from archeological sites across the country to help finance their private armies (. . .).[112]

Descriptions of how warlords participate in the trade are reminiscent of the 'rescue operation' described by Schøyen:

> Archaeological sites have also been systematically plundered of objects in a multi-million dollar business that percolates ever larger sums upwards. Archaeological finds are regarded as major economical assets. The outlines of pattern of destruction are fairly clear; one works for the bottom up. Local militia commanders have needed to pay cash to pay their soldiers; peasant farmers regard casual finds as financial godsends. Once an object is found, the commander or the farmer takes it to one of the urban families that in the past thirty years have created syndicates that specialize in dealing with looted works of art. (. . .) They pay good prices and ensure the goods are delivered to their destinations. The smugglers take the works, by horse and donkey in the case of smaller items and by lorry in the case of larger ones, mainly to nearby Peshawar.
>
> (. . .)
>
> The other method, from top to down, is simply the reverse of that described above: collectors put in requests to the dealers who send word to the syndicates who give notice to the locals for specific objects to be found.[113]

Against this background, it is difficult to justify the Afghan antiquities trade by referring to it as 'subsistence digging'. The shady nature of the trade undermines the Schøyen Collection's means-end justification of investing the revenue from any sale in humanitarian aid.

110 Dupree 1996: 47.
111 Lee 2000; Brodie 2002: 6.
112 Pak Tribune 2004.
113 Lee 2000.

Cultural Imperialism and the Hypocrisy of Norwegian Cultural Property Politics

The preceding discussion provided an overview of the arguments used in the public debate in Norway over the ownership of manuscripts found in Afghanistan (and other places), but the legitimacy of these arguments is doubtful. However, although it is only to be expected that a private collection will defend ownership of what it has bought and claims to have rescued, it is surprising that researchers and Norwegian officials and institutions have been eager to cooperate with the Collection, even though most of those involved are now dissociating themselves.

Norway's involvement in the Schøyen Collection has also been in stark contrast to its efforts to preserve its 'own' cultural heritage within national borders. Norway adopted as early as 1904 the first law with provisions against the export of movables, and Norwegian cultural policy for the last two hundred years has aimed to define what constitutes Norwegian cultural heritage in order to reclaim it from abroad. One example is the two thousand meters of archives (16 million document pages) that returned from Denmark after the union between these two countries ended in 1814. The last documents returned in 1996.[114] After 1814, Norway entered into a union with Sweden that lasted until 1905, and a second example of restitution is the return between 1972 and 1988 of 7,452 Norwegian folk objects that had been bought in Norway by a Swedish museum between 1874 and 1905.[115] The last return from Sweden took place in 2005, and included more than 500 archaeological objects that were displayed in Oslo City Hall in June 2005 as part of the program marking the hundred-year anniversary of independence from Sweden. New claims for return are frequently raised, such as for the return of an important 14th century Codex held in Danish state ownership,[116] although some scholars are critical of many of these claims because of their inherent nationalism.[117] Local communities also often claim archaeological objects held in the five state-designated archaeological museums for return, but the museums defend their legal

[114] Herstad 2002.
[115] Bjørkvik 1988.
[116] Rindal 2003.
[117] E.g. Eriksen 2001.

right to own, care for and research them.[118] Nevertheless, in 1997 the Museum of Cultural History (University of Oslo) did return to Greenland 897 archaeological objects acquired by a Norwegian archaeologist between 1929 and 1931.[119]

Norwegian nationalism and cultural heritage protection is currently much discussed, and the globalization of the cultural heritage has led to stronger interest in the world's heritage. Cultural heritage protection has from the mid-1980s been included as part of foreign aid, and has also been expressed through support for the UNESCO 1972 World Heritage Convention,[120] and the government's establishment in 2002 of a Nordic World Heritage Foundation.[121] However, in the case of the Schøyen Collection, by supporting the Norwegian ownership of manuscripts found in Afghanistan, the enthusiasm of some officials and scholars for cultural heritage has unfortunately been distorted into a cultural imperialism. Looking back at the Schøyen case, several people seemed intent on catching up with the colonizing countries that in the 19th and early 20th centuries were able to create museums of international importance, and possessed power over cultural objects.

The Power of the Past

The past certainly has power over us, often expressed as a craving to own cultural objects: who has not been challenged by that desire? The Danish author Carsten Jensen writes about this desire after his travel through Vietnam during the early 1990s, when he visited the temples of the ruined Champa capital of My Son (ca. 4th to 13th century A.D.) that had been destroyed by the Americans during the Vietnam War. Guards on the site offered him a head of the Buddha, and although disapproving of such a purchase, Jensen could not resist: owning the face of eternity seemed to offer him immortality:

> It was a wonderful face, so rich in eternity, and I realized it could be mine. I could live with it beside me every single day for the rest of

[118] E.g. Mikkelsen 1999; Solberg 1999.
[119] Bratlie & Svensson 2002.
[120] Omland 1998: 51–56.
[121] http://www.nwhf.no/ (accessed September 18, 2005).

> my life, witnessing each day this smile which seemed to me to harbour a mystery (. . .).
>
> My harbour to possess this head was most certainly acute, inasmuch as it was the desire to own eternity and thus insure myself against my own passing. In my hand I held 40 to 50 generations and through this head, so it seemed, I could live for 40 to 50 generations to come.[122]

A similar power of the past must have exerted its hold over people gaining access to objects in the Schøyen Collection, best—and most entertainingly—communicated by the then Minister of Fisheries who in March 2002 described a visit to Schøyen and in awe urged the government to buy the entire Schøyen Collection:

> I am still made to feel faint by thinking that I have had Tutankhamen's signet ring on my finger and turned over the leaves of the Magna Carta, not just looked at it in a museum, but also turned it. And held a stone from the Tower of Babel. A country boy like me can be made faint by less. I have been sitting around Schøyen's kitchen table and we conversed with several thousand-year old cultural treasures lying next to the slices of bread (. . .).[123]

Claimants to the Afghan manuscripts seem to have been caught by a similar desire to own eternity and thus to become immortal. Most of all the owner of the Schøyen Collection, by rescuing the manuscripts from the Taliban and saving them for eternity, aimed to attain his own immortality by selling the entire collection to a public institution and letting the proceeds go to a foundation named in his honour. However, some claims for such eternal objects can have a price, and Jensen writes about his sin when he purchased the Buddha:

> I had overstepped a boundary, gone over to 'them', the others—the bomb-throwers, the despoilers, whom I had always viewed from the safe side of a clear conscience—and become one small link in the great chain of destruction.
>
> (. . .) And when enough time had passed people would refer to the traces of war as ravages of time and no longer see the ruthless hand of man or hear the tramp of the armies' feet. But it was this harsh passage that had found an echo in my little transaction and in some way I was now a more legitimate part of the human race: crossed the border to the lands of destruction and learned that beauty had its price and that the $70 I had paid for it was but a fraction of that prize.[124]

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[122] Jensen 2000 [1996]: 251.
[123] Kibar 2002, translation by the author.
[124] Jensen 2000 [1996]: 252, 253.

Conclusions: Hopes for the Future

At the time of finishing this article (September 2005), the future of the manuscripts from Afghanistan had not been decided, although in 2005 the Schøyen Collection did return those pieces believed to have come from the Kabul Museum. The Norwegian government does not support a state purchase of the Schøyen Collection, but the Collection is still offered for sale. However, after the past years of debate, any potential buyer cannot claim to be in 'good faith' without first making inquiries into the legal and ethical status of several of the objects in the Schøyen Collection.

Many of those who defend Schøyen's collecting practices have unfortunately sought to create the impression that the issue is really a pragmatic one, about whether the objects should be immediately shipped back to Afghanistan or kept safely in Norway. But this is an evasion of the real argument, and any solutions should be based on a different premise: the Schøyen Collection has not demonstrated that it is the rightful owner of the Afghan manuscripts and should not therefore be allowed to trade in them.[125]

If the facilities to store and to display the manuscripts are not available in Afghanistan today, the Norwegian authorities could perhaps give financial help to establish them, or the manuscripts could for a while be deposited at an institution that can guarantee their safekeeping. However, it is important that the Afghan authorities agree to any decisions that are made. The process should be initiated by a voluntary donation on the part of the Schøyen Collection of all the Afghan manuscripts. This, in turn, might make a positive contribution to the international campaign against the destruction of archaeological sites and the illicit traffic of cultural objects.[126] In the end, some cultural artefacts of Gandhara might be preserved in the land where this civilization once flourished, and hopefully for the benefit of the people who currently live there.

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[125] Prescott & Omland 2003: 10.

[126] *Op. cit.*: 11.

Postscript October 2005

After the completion of this article, the Schøyen Collection presented the following agreement with the Afghan authorities:

> However, a friendly dialogue has evolved between Afghanistan, represented by the embassies in Oslo and Paris, and The Schøyen Collection, the present owner of the manuscripts. As a result of this, 7 fragments that were published in 1932 by Sylvain Levi as part of the Hackin collection which later came to The National Museum of Afghanistan, were given to the Museum 5 September 2005. These fragments had so far been held by The Schøyen Collection for security and preservation reasons.
>
> This has further been agreed:
>
> The Hackin collection in The National Museum of Afghanistan comprised originally app. 50 Buddhist manuscript fragments from the fourth to the seventh century. The Schøyen Collection has generously offered to present to The Afghan National Museum 43–44 further original Buddhist manuscript fragments of similar type that were in the Hackin collection, in order to bring the Museum's holdings up to its pre-war level of app. 50 fragments. The Afghan authorities have accepted the gift, which will be presented to Afghanistan within the end of 2007 after research and publication.
>
> The Afghan authorities also appreciate the research over many years and publication of the Buddhist manuscript fragments by Professor Jens Braarvig and the international group of scholars, and will also express their support of the scholars' future work.[127]

References

Alberge, D. 2002 'Effort to halt sale of Buddhist "Dead Sea scrolls"', *The Times*, June 22.

Ali, I. & R. Coningham 2001 'Recording and Preserving Gandhara's Cultural Heritage', in *Trade in Illicit Antiquities: the Destruction of the World's Archaeological Heritage*, N. Brodie, J. Doole & C. Renfrew (eds.), McDonald Institute monographs, Cambridge, 25–31.

Andreassen, T. 2004a 'Kun opptatt av å bevare verdensarven', *Aftenposten*, September 10, 2004 (interview with Schøyen, available on http://www.aftenposten.no/kul_und/article867015.ece, accessed September 18, 2005).

—— 2004b 'Salgsinntektene til humanitær stiftelse', *Aftenposten*, September 10, 2004 (interview with Schøyen).

[127] http://www.nb.no/baser/schoyen/5/5.19/index.html (accessed October 21, 2005).

Anker, L. 2002a 'Martin Schøyen om samlingen', *Museumsnytt* 51, 1, 29.
—— 2002b 'Norge smutthull for afghansk kulturskatt?', *Museumsnytt* 51, 1, 28–31.
—— 2003 'Schøyensamlingen. Fra Irak i strid med FN-forbud?', *Museumsnytt* 52, 5/6, 4–5.
—— 2004 'Vurderte ikke proveniens', *Memento* 1, 5, 13–14.
Anker, L. & I. A. Hovland 2004 'Schøyensamlingen. Tåkelagt eierhistorie', *Memento* 1, 5, 12.
Arnkværn, H. & A. M. Nicolaysen 2004 'Presseetikk og juks, *Dagens Næringsliv*, October 12, 2004 (comment by Schøyen's lawyers).
Bailey, M. 2004a 'Buddhism's "Dead Sea Scrolls" for sale to Norway. Saved from Afghanistan by top collector, the manuscripts pose an ethical problem', *The Art Newspaper*, September 2004 (available on http://www.theartnewspaper.com/news/article.asp?idart=9912, accessed September 18, 2005).
—— 2004b 'British Library accused of buying smuggled scrolls. The Afghan Minister of Culture says Hadda Museum looted', *The Art Newspaper*, November 2004.
Bing, J. 2005 *Utredning om retslige sider av balansen mellom originalobjekters tilhørighet og den digitale representasjonen av disse*, Oslo.
Bjørhovde, H. 2000a 'Nordmann eier unik historisk skatt. Vil du prøve Tut-ankh-Amons ring?', *Aftenposten*, October 23, 2000 (interview with Schøyen, available on http://tux1.aftenposten.no/kul_und/kultur/d169785.htm, accessed September 18, 2005).
—— 2000b 'Nordmann har samlet håndskrifter verd 600 mill. Vil selge unik skrift-skatt', *Aftenposten*, October 17, 2000 (interview with Mr. Schøyen, available on http://tux1.aftenposten.no/kul_und/kultur/d168653.htm, accessed September 18, 2005).
Bjørkvik, H. 1988 *Kultur i retur*. Norsk Folkemuseum, Oslo.
Boylan, P. J. 1995 'Illicit Trafficking in Antiquities and Museums Ethics', in *Antiquities. Trade or Betrayed. Legal, ethical and conservation issues*, K. Walker Tubb (ed.), Archetype, London, 94–104.
Bratlie, E. & T. G. Svensson 2002 'Repatriation of a collection', in *UKM—en Mangfoldig Forskningsinstitusjon*, pp. 41–48. E. Høigård Hofseth (ed.), Occasional Papers vol. 1. University Museum of Cultural Heritage, Oslo.
Brekke, T. & P. Kværne 2004 'Usannheter om Schøyens samling', *Dagbladet*, September 17, 2004 (reply to NRK, Omland and Prescott, available on http://www.dagbladet.no/kultur/2004/09/17/408537.html, accessed September 18, 2005).
Brodie, N. 2002 'Introduction', in *Illicit Antiquities. The theft of culture and the extinction of archaeology*, N. Brodie & K. Walker Tubb (eds.), One World Archaeology 42, London, 1–22.
Brodie, N., J. Doole & P. Watson 2000 *Stealing history. The illicit trade in cultural material*, Cambridge.
Brodie, N. & D. Gill 2003 'Looting. An International View', in *Ethical Issues in Archaeology*, L. J. Zimmerman, K. D. Vitelli & J. Hollowell-Zimmer (eds.), AltaMira, Walnut Creek, 31–44.
Braarvig, J. (ed.) 2000 *Buddhist Manuscripts I*. Manuscripts in the Schøyen Collection I., Oslo.
—— 2002a *Buddhist Manuscripts II*. Manuscripts in the Schøyen Collection III, Oslo.
—— 2002b 'Buddhist Manuscripts in the Schøyen Collection', in *CAS Oslo 1992–2002. Advanced Study in a Norwegian Context*, Oslo (available on http://www.cas.uio.no/Publications/Jubilee/Buddhist_Manuscripts.pdf, accessed September 18, 2005), 57–62.
—— 2004 'The case of ancient Buddhist manuscripts from Afghanistan', in *Not for Sale. A Swiss-British conference on the traffic in artefacts from Iraq, Afghanistan and beyond*, M. Kimmich (ed.), Geneva, 35–38.
CAS 2001 'Remembrance of things past', *Newsletter Centre for Advanced Study* 9, 2, (available on http://www.cas.uio.no/Publications/Cas01no2/screen.pdf, September 18, 2005), 1–5.

—— 2002 'The Schøyen Collection. A cultural and political challenge', *Newsletter Centre for Advanced Study* 10, 1 (available on http://www.cas.uio.no/Publications/Cas02no1/screen.pdf, accessed September 18, 2005), 8.

Clément, E. 1996 'UNESCO. Some specific cases of recovery of cultural property after an armed conflict,' in *Legal Aspects of International Trade in Art*, M. Briat & J. A. Freedberg (eds.), International Sales of Works of Art 5., The Hague, 157–162.

Dupree, N. Hatch 1996 'Museum Under Siege', *Archaeology* (March/April), 42–51.

Eriksen, A. 2001 '"Tordenskjold heimatt til Noreg!". Om tilbakeføring av kulturarv', *Norveg* 44, 1/2, 51–72.

EAA 1997 *Code of Practice*. The European Association of Archaeologists (available on http://www.e-a-a.org/codeprac.htm, accessed September 18, 2005).

Flyum, O. 2005 *SKUP-Rapport for NRK Brennpunkts prosjektet. Skriftsamleren (del 1), De magiske krukkene (del 2). January 31, 2005*, Oslo (available on http://www.skup.no/Metoderapporter/SKUP-metoderapporter_for_2004/916Metoderapport.doc, accessed September 18, 2005).

Fosse, L. M. & R. Schmidt 2004 'Plyndring og salg av kulturminner', *Morgenbladet*, October 8–14, 2004 (reply to Prescott & Omland).

Hatlevik, S. E. 2005 'Professor renvasket,' *Morgenbladet*, August 19–25.

Haugland, V. S. 2004 'Question in the Norwegian Parliament to the Minister of Culture, Valgerd Svarstad Haugland, on the cooperation between the Norwegian National Library and The Schøyen Collection', *Stortinget*, December 1, 2004 (available on http://www.stortinget.no/spti/dw-o2004120107–005.html, accessed September 18, 2005).

Herstad, J. 2002 'Afghansk kulturarv og norsk kulturimperalisme', *Museumsnytt* 51, 2, 12.

Hollowell-Zimmer, J. 2003 'Digging in the Dirt—Ethics and "Low-End Looting"', in *Ethical Issues in Archaeology*, L. J. Zimmerman, K. D. Vitelli & J. Hollowell-Zimmer (eds.), AltaMira, Walnut Creek, 45–56.

ICOM 2001/1986 *Code of Ethics for Museums*, ICOM, Paris.

—— 2004 *Code of Ethics for Museums*, ICOM, Paris.

Jensen, C. 2000 [1996] 'Would I Could Own the Face of Eternity', in *I Have Seen the World Begin*, transl. by B. Haveland, London, 247–253.

Kibar, O. 2002 '"En juvel vi burde beholde i Norge"', *Dagens Næringsliv*, March 18.

—— 2003a '"Forandrer ingenting"', *Dagens Næringsliv*, October 15, 2003 (interview with Schøyen).

—— 2003b 'Sier nei til muslimske milioner', *Dagens Næringsliv*, March 29/30, 2003 (interview with Schøyen).

Lee, D. 2000 'History and art are being wiped out', *The Art Newspaper*, March.

Lévi, S. 1932 'Note sur des manuscrits sanscrits provenant de Bamiyan (Afghanistan), et de Gilgit (Cachemire)', *Journal Asiatique* (janvier–mars), 1–45.

Lundén, S. 2004 'The Scholar and the Market. Swedish scholarly contributions to the destruction of the world´s archaeological heritage', in *Swedish Archaeologists on Ethics*, H. Karlsson (ed.), Lindome, 197–247.

Matsuda, D. 1998 'The Ethics of Archaeology, Subsistence Digging, and Artifact Looting in Latin America: Point, Muted Counterpoint', *International Journal of Cultural Property* 1, 7, 87–97.

Matsuda, K. 2000 'New Sanskrit Fragments of the Saddharmapu.n.dariikasuutra in the Schoyen Collection, Norway', *The Journal of Oriental Studies* 10 (available on http://ccbs.ntu.edu.tw/FULLTEXT/JR-JOS/jos94088.htm, accessed September 18, 2005), 97–108.

McIntosh, R., T. Togola & S. Keech McIntosh, 1995 'The Good Collector and the Premise of Mutural Respect among Nations', *African Arts* (autumn), 60–69.

McIntosh, S. Keech, C. Renfrew & S. Vincent 2000 '"The Good Collector". Fabulous beasts or endangered species?', *Public Archaeology* 1, 73–81.

Merryman, J. H. 1986 'Two ways of thinking about cultural property', *The American Journal of International Law* 80, 831–853.

—— 1996 'A licit international trade in cultural objects', in *Legal Aspects of International Trade in Art*, M. Briat & J. A. Freedberg (eds.), International Sales of Works of Art 5, The Hague, 3–45.

Mikkelsen, E. 1999 'Hvor hører museumsgjenstander hjemme?', *Aftenposten*, August 26.

Moxnes, A. 2001 'Unike buddhistiske skrifter', *NRK P2 Kulturbeitet*, November 13, 2001 (radio interview with Braarvig, available on http://www.nrk.no/litteratur/1432506.html, accessed September 18, 2005).

NESH 2005 *Uttalelse fra Den nasjonale forskningsetiske komité for samfunnsvitenskap og humaniora (NESH) om forskning på materiale med usikkert eller ukjent opphav. 30. juni 2005*. NESH, Oslo (available on http://www.etikkom.no/HvaGjorVi/Uttalelser/NESH/300605, accessed September 18, 2005).

NRK 2004 'Skriftsamleren', *NRK1 Brennpunkt*, September 7 and 14, 2004 (TV documentary on The Schøyen Collection).

Omland, A. 1998 *UNESCOs Verdensarv-konvensjon og forståelsen av en felles verdensarv*. Unpublished Cand.philol thesis in archaeology, University of Oslo (available on http://folk.uio.no/atleom/hovedoppg/innhold.htm, accessed September 18, 2005).

—— 2002–2005 *Buddhist Manuscripts from Afghanistan in The Schøyen Collection*, Internet page (available on http://folk.uio.no/atleom/manuscripts.htm, accessed September 18, 2005).

—— 'The ethics of the World Heritage concept', in *The Ethics of Archaeology. Philosophical Perspectives on the Practice of Archaeology*. C. Scarre & G. Scarre (eds.), Cambridge, (in press).

Omland, A. & C. Prescott 2002a 'Afghanistan's cultural heritage in Norwegian museums?', *Culture Without Context* 11 (Available on http://www.mcdonald.cam.ac.uk/IARC/cwoc/issue11/afghanscrolls.htm, accessed September 18, 2005), 4–7.

—— 2002b 'Afghansk kulturarv. fortsatt i norsk eie?', *Aftenposten*, January 17, 2002 (comment article, available on http://www.aftenposten.no/meninger/kronikker/article259191.ece, accessed September 18, 2005).

—— 2003a 'Afghanistan krever kulturskattene tilbake', *Levende Historie* (October, Internet edition only, http://www.levendehistorie.no/lh/article.cgi?id=126, accessed November 1, 2004, not available September 18, 2005).

—— 2003b 'Arkeologi og krig. Buddhismens dødehavsruller setter Norge på prøve', *Levende Historie* 5, 42–47.

—— 2004a 'Schøyen og kulturkriminalitet', *Dagbladet*, September 9, 2004 (comment article, available on http://www.dagbladet.no/kultur/2004/09/09/407793.html, accessed September 18, 2005).

—— 2004b 'Tåke over Schøyen-saken', *Dagbladet*, September 28, 2004 (reply to Brekke and Kværne, available on http://www.dagbladet.no/kultur/2004/09/28/409572.html, accessed September 18, 2005).

Pak Tribune 2004 'Warlords loot Afghanistan's cultural heritage with impunity', *Pak Tribune*, October 9, 2004 (available on http://paktribune.com/news/index.php?id=79984, accessed September 18, 2005).

Perrot, P. N. 1997 'Museum ethics and collecting principles', in *Museum Ethics*, G. Edson (ed.), London, 189–195.

Prescott, C. & A. Omland 2003 'The Schøyen Collection in Norway. Demand for the return of objects and questions about Iraq', *Culture Without Context* 13 (available on http://www.mcdonald.cam.ac.uk/IARC/cwoc/issue13/schoyen.htm, accessed September 18, 2005), 8–11.

—— 2004 'Akademisk hvitvasking?', *Morgenbladet*, 1–7 October, 2004 (reply to Schmidt and Fosse).

Pressens faglige utvalg 2004 *PFU-sak nr. 184/04. Schøyen vs. NRK Brennpunkt*. PFU, Oslo (parts of available on http://81.0.149.237/pfu/2004/04–184.htm, accessed September 18, 2005).

Prott, L. V. 1995 'National and international laws on the protection of the cultural heritage', in *Antiquities. Trade or Betrayed. Legal, ethical and conservation issues*, K. Walker Tubb (ed.), London, 57–66.

Prott, L. V. & P. J. O'Keefe 1992 'Cultural Heritage' or 'Cultural Property'?, *International Journal of Cultural Property* 1, 307–319.

Renfrew, C. 2001 *Loot, Legitimacy and Ownership*, London.

Rindal, M. 2003 'Magnus Lagabøters landslov tilbake til Noreg?', *Aftenposten*, January 12.

Salomonsen, R. 1999 *Ancient Buddhist Scrolls from Gandhara. The British Library Kharosthi fragments*, Seattle.

Schmidt, R. & L. M. Fosse 2004 Afghanske antikviteter og ulovlig handel. *Morgenbladet*, September, 2004 (comment article), 24–30.

Seligman, T. K. 1996 'What value in surplus cultural property?', in *Legal Aspects of International Trade in Art*, M. Briat & J. A. Freedberg (eds.), International Sales of Works of Art 5, The Hague, 131–133.

Shanks, H. 2002a '"The Dead Sea Scrolls of Buddhism"', *Biblical Archaeological Review* 28, 5, 31.

—— 2002b 'Scrolls, Scripts & Stela', *Biblical Archaeological Review* 28, 5, 24–34, 68.

Smith, L. 2004 *Archaeological theory and the politics of cultural heritage*, London.

Solberg, B. 1999 'Arven fra tre hundre generasjoner. Bruk og betydning i vår egen tid', in *Forankring fryder. framtidsvern av fortidsminner*, Bergen Museums skrifter, kultur no. 2, Bergen, 9–14.

Staley, D. P. 1993 'St. Lawrence Island's Subsistence Digger. A New Perspective on Human Effects on Archaeological Sites', *Journal of Field Archaeology* 20, 3, 347–355.

SAA 1993 *Editorial Policy, Information for Authors & Style Guide*, Society for American Archaeology, Washington D.C. (available on http://www.saa.org/publications/StyleGuide/styleGuide.pdf, accessed September 18, 2005).

Thoden van Velzen, D. 1996 'The world of Tuscan tomb robbers. Living with the local community and the ancestors', *International Journal of Cultural Property* 5, 1, 111–126.

—— 1999 'The continuing reinvention of the Etruscan myth', in *Archaeology and Folklore*, A. Gazin-Schwartz & C. J. Holtorf (eds.), London, 175–195.

Toft, M. 2004a 'Kulturdepartementet rører ikkje Schøyen-samlinga', *Uniforum*, September 10, 2004 (Internet edition only, available on http://wo.uio.no/as/WebObjects/avis.woa/wa/visArtikkel?id=17763&del=uniforum, accessed September 18, 2005).

—— 2004b 'Schøyen-samlinga. Frå forsking til etterforsking?', *Uniforum*, September 9, 2004 (available on http://wo.uio.no/as/WebObjects/avis.woa/wa/visArtikkel?id=17741&del=uniforum, accesssed September 18, 2005).

Tubb, K. Walker & N. Brodie 2001 'From museum to mantelpiece. The antiquities trade in the United Kingdom', in *Destruction and Conservation of Cultural Property*, R. Layton, P. G. Stone & J. Thomas (eds.), One World Archaeology 41, London, 101–116.

UNESCO 1954 *Convention for the Protection of Cultural Property in the Event of Armed Conflict*. UNESCO, Paris.

—— 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. UNESCO, Paris.

UNIDROIT 1995 *UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects*. UNIDROIT, Rome.

Van Krieken, J. 2000 'The Buddhas of Bamiyan. Challenged witnesses of Afghanistan's forgotten past', *Newsletter the International Institute for Asian Studies* 23 (available on http://www.iias.nl/iiasn/23/index.html, accessed September 18, 2005), 14.

Warren, K. J. 1989 'A philosophical Perspective on the Ethics and Resolution of Cultural Property Issues', in *The Ethics of Collecting Cultural Property. Whose Culture? Whose Property?*', P. M. Messenger (ed.), Albuquerque, 1–25.

Wylie, A. 2000 'Ethical Dilemmas in Archaeological Practice. Looting, Repatriation, Stewardship, and the (Trans)formation of Disciplinary Identity', in *Ethics in American Archaeology*, M. J. Lynott & A. Wylie, second revised ed. Society for American Archaeology, Washington D.C., 138–157.

Yamada, M. 2002 'Buddhism of Bamiyan', *Pacific World. Journal of the Institute of Buddhist Studies* Third series 4 (available on http://www.shin-ibs.edu/pdfs/pwj3–4/07YM4.pdf, accessed September 18, 2005), 109–122.

CHAPTER FIFTEEN

AFGHAN CULTURAL HERITAGE AND INTERNATIONAL LAW: THE CASE OF THE BUDDHAS OF BAMIYAN

Francesco Francioni and Federico Lenzerini

> This chapter is based on a larger study undertaken by the authors at the request of UNESCO in the context of developing an international instrument capable of clarifying in which circumstances the deliberate destruction of cultural heritage constitutes a violation of international law (such an instrument was finally adopted by the UNESCO General Conference on 17 October 2003 as the Declaration Concerning the Intentional Destruction of Cultural Heritage.[1]

Throughout history, the destruction and loss of cultural heritage have constantly occurred as a consequence of fanatic iconoclasm or as the 'collateral' effects of armed conflicts. As early as 391 A.D. the Roman Emperor Theodosius ordered the demolition of the Temple of Serapis in Alexandria in order to obliterate the last refuge of non-Christians. In 1992 Hindu extremists were intent on the destruction of the 16th century Babri Mosque.[2] In more recent times, the Balkan wars have offered us the desolate spectacle of the devastation of mosques, churches, libraries, archives, the ancient city of Dubrovnik and e.g. the Bridge of Mostar. Extensive looting and the forced transfer of cultural objects have accompanied almost every war,[3] including the recent Iraqi war. Aerial bombardments during the Second World War and in the more than one hundred armed conflicts that have

[1] Earlier versions of this study were published under the title 'The Destruction of the Buddhas of Bamiyan and International Law' in the *European Journal of International Law*, vol. 14, 2003, pp. 619–652 and under the title 'The Obligation to Prevent and Avoid Destruction of Cultural Heritage: From Bamiyan to Iraq', in *Art and Cultural Heritage: Law, Policy and Practice* (Hoffman B. T. ed.), Cambridge, 2005.

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[2] See Saikal & Thakur 2001.

[3] See the rich documentation provided by Boylan 1993.

plagued humanity since 1945 have contributed to the destruction and disappearance of much cultural heritage of great importance for the countries of origin and for humanity as a whole.

The violent destruction of the great rock sculptures of the Buddhas of Bamiyan by military and para-military forces of the Taliban government of Afghanistan in March 2001 could be seen as an ordinary example in this history of cultural infamy. Upon closer scrutiny, however, the violent acts themselves and the perverse modalities of their execution present various features which are new in the pathology of State behaviour toward cultural heritage.

First, unlike traditional war damage to cultural heritage, which affects the enemy's property, the demolition of the Buddhas of Bamiyan concerns heritage that belonged to the Afghan Nation. They were located in its territory and belonged to its ancient pre-Islamic past.

Second, the purpose of the destruction was not linked in any way to a military objective, but was inspired by the sheer will to eradicate any cultural manifestation of religious or spiritual creativity that did not correspond to the Taliban view of religion and culture.

Third, the modalities of the execution differed considerably from any similar destruction which had previously taken place in the course of recent armed conflicts. For instance, during the Balkan war of the 1990s and during the Iraq-Iran war in the 1980s, extensive destruction of cultural property occurred as a result of wanton bombardment, as in the case of Dubrovnik, or under the impulse of ethnic hatred. In the case of the Afghan Buddhas, the demolition was carefully planned, painstakingly announced to the media all over the world, and cynically documented in all its phases of preparation, bombing and ultimate destruction.

Fourth, to the knowledge of these authors, the episode in point is the first one of planned deliberate destruction of cultural heritage of great importance as an act of defiance against the United Nations and of the international community. It is not a mystery that the Taliban's decision to destroy the Buddhas of Bamiyan came in the wake of the sanctions adopted in 1999 and 2000 against the Afghan government because of their continuing sheltering and training of terrorists and the planning of terrorist acts.[4]

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[4] In particular, UN Security Council Resolution 1267 (1999) of 15 October 1999; Resolution 1333 (2000), adopted on 19 December 2000 with only the abstention

Fifth, the destruction of the Buddhas and of other significant collections of pre-Islamic Afghan art took place as an act of narcissistic self-assertion against the pressure of the Director-General of UNESCO, Ambassador Matsuura, of his special envoy to Kabul, Ambassador Lafrance, and of the UN Secretary-General, Kofi Annan, who all pleaded with the Taliban to reconsider their disgraceful decision to proceed with the destruction of all the statues in the country.[5]

Because of these elements, it is understandable that UNESCO and the international community as a whole reacted to the destruction of the Buddhas with shock.[6] There was great concern for the moral degradation shown by the authors of such acts, and a certain anxiety regarding the role of international law in preventing and suppressing such forms of cultural vandalism which, in the words of the UNESCO Director-General, can constitute a 'crime against culture'. This chapter is especially concerned with the latter point. It particularly addresses the question whether and to what extent contemporary international law protects cultural heritage of great importance for humanity against deliberate destruction perpetrated by a State in whose territory such heritage is located.

The Destruction of the Buddhas of Bamiyan in Context

The Taliban was formed in 1994 by a group of graduates of Pakistani Islamic colleges on the border with Afghanistan. The members of the group were led by Mullah (village-level religious leader) Mohammed Omar, a man who is said to have lost one of his eyes fighting the

of Malaysia and China (which provides for the strong condemnation of 'the continuing use of the areas of Afghanistan under the control of [. . .] Taliban [. . .] for the sheltering and training of terrorists and planning of terrorist acts'); see also Resolution 1363 (2001) of 30 July 2001.

[5] See also the appeal issued by ICOMOS and ICOM on March 1, 2001, where it is stated that the act of destruction '[. . .] would be a total cultural catastrophe. It would remain written in the pages of history next to the most infamous acts of barbarity'. For a chronology of international efforts to dissuade the Taliban from carrying out their destructive plan see the Report of the Bureau of the World Heritage Committee, 25th Session, 25–30 June 2001, doc. WHO-2001/CONF.205/10.

[6] See, from a general point of view, the condemnation expressed by the UN General Assembly, in its Resolution 55/254 of 11 June 2001, on the protection of religious sites, with regard to 'all acts or threat of violence, destruction, damage or endangerment, directed against religious sites as such, that continue to occur in the world'.

Soviets during the 1980s. The Taliban advocated an 'Islamic Revolution' in Afghanistan, aimed at the re-establishment of the unity of the country in the framework of Islamic law. Immediately after their rise, the Taliban were supported by most of the civilian population, which was frustrated by the situation of civil war persisting in the country since the end of the 1970s. In particular, Afghan peoples were seduced by the hope of stability and the restoration of peace promised by the Taliban, who seemed to be successful in stamping out corruption and improving living conditions.[7] For this reason, from 1994 onwards the Taliban advance to gain effective power over Afghanistan had progressively intensified. At the critical date of the destruction of the Buddhas, the Islamic Emirate of Afghanistan, established by the Taliban, covered some 90–95 per cent of Afghan territory, including the capital Kabul. The rest of the territory, concentrated in the far northeast of the country, was still under the power of the Islamic State of Afghanistan, headed by the National Islamic United Front for the Salvation of Afghanistan ('United Front' or 'Northern Front') that was led by Rabbani.

Although at the end of the 1990s the Taliban movement had gained effective control of the greater part of Afghan territory, this control was perceived by the international community as not being sufficient to confer on the Islamic Emirate of Afghanistan the attributes of legitimacy. Just three States (Pakistan, Saudi Arabia and the United Arab Emirates) had recognized the Taliban government as the legitimate government of Afghanistan. The Afghan UN seat was still retained by the delegation of the Islamic State of Afghanistan,[8] which also retained control of most of the country's embassies abroad. President Rabbani hence continued to be acknowledged by most members of the international community, including Iran and Russia, as the rightful leader of Afghanistan.

War operations had intensified since June 2000 with the Taliban and the United Front, receiving support, respectively, from Pakistan on the one side, and Iran, Russia, and some other former Soviet

[7] See 'Analysis: Who are the Taleban?', BBC News, 20 December 2000, at <http://news.bbc.co.uk/hi/english/world_south_asia/newsid_144000/144382.stm>.

[8] The UN General Assembly First Report of the Credentials Committee of the GA Fifty-fifth session, UN Doc. A/55/537, 1 November 2000, at 6–8. See also 'Identical letters dated 14 September 2001 from the Permanent Representative of Afghanistan to the United Nations addressed to the Secretary-General and the President of the Security Council, UN doc. A/56/365–S/2001/870 of 17 September 2001.

Republics on the other.[9] NGOs reported that both warring factions systematically violated international humanitarian law and the basic rights of individuals by burning houses, raping women, torturing, and executing people suspected of supporting the opposite faction.[10] For this reason, on 23 January 2001 Amnesty International urged the United States to support the establishment of an international tribunal for Afghanistan to investigate massacres perpetrated by the warring factions.[11]

According to Human Rights Watch, during the war period Afghanistan has lost a third of its population, with some 1.5 million people estimated to have died, while another 5 million had fled as refugees to foreign countries, Pakistan and Iran in particular.[12]

Afghanistan had in 2001—after more than 20 years of warfare—the world's lowest life expectancy and was, together with Somalia, one of the two hungriest countries in the world.[13] The persistence of war

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[9] Human Rights Watch, 'Fueling Afghanistan's War', HRW World Report 2001: Asia Overview, at <http://www.hrw.org/backgrounder/asia/afghanistan/afghbk.htm>.

[10] Human Rights Watch, *cit.*; Clark K., 'UN accuses Taleban of massacre', BBC News, 20 January 2001, at <http://www.afghan-politics.org>; UN Economic and Social Council, 'Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World', Report on the Situation of human rights in Afghanistan submitted by Mr. Kamal Hossain, Special Rapporteur, UN Doc. E/CN.4/2001/43, 1 February 2001, at 3 ff. and 41–44.

[11] 'Amnesty International Seeks US Support for Afghanistan International Tribunal', at <http://www.afghan-politics.org>

[12] Human Rights Watch, *cit.*; UNHCR, 'Background Paper on Refugees and Asylum Seekers from Afghanistan', Geneva, June 1997, at <http://www.unhcr.ch/refworld/country/cdr/cdrafg.htm>, at 1.2, according to which in 1996 the refugee population from Afghanistan was the largest in the world, standing at 2,628,550, while the number of internally displaced people in Afghanistan had reached 1,200,000 as of 31 December 1996. Also UN General Assembly—Security Council, 'The situation in Afghanistan and its implications for international peace and security', Report of the Secretary-General, UN Doc. A/55/393–S/2000/875, 18 September 2000, at 39–42; UN General Assembly, 'Situation of human rights in Afghanistan', Note by the Secretary-General, UN Doc. A/55/346, 30 August 2000, at 33–37; UN Doc. E/CN.4/2001/43, at 36–39; Finkel D., 'The Road of Last Resort', in *Washington Post*, 18 March 2001, p. A01; Suarez R., 'Afghanistan's Agony', *Online NewsHour*, 29 March 2001, at <http://www.afghan-politics.org>.

[13] Human Rights Watch, *cit.* According to World Food Program officials, in 2001, 3.8 million Afghans were facing severe shortage or an absolute lack of food (see Suarez, *cit.*; UN Doc. E/CN.4/2001/43, at 53, according to which in the past two years Afghanistan's grain production had fallen by more than 50 per cent, and now satisfied less than half of the whole national grain requirement); it was estimated that in 2001 the internal food production deficit amounted to 2.3 million tonnes, more than double the figure for 1999 (UN Doc. A/55/346, at 29). Even before the beginning of the civil war, Afghanistan was among the world's poorest coun-

operations had induced, in the late 1990s, a large-scale monetarization of economic and social relations, combined with hyper-inflation and the destruction of most of the subsistence economy.[14] Such a sudden change produced abject poverty and the transformation of the internal economy into a system where, until recently, a significant part of the national income was obtained by the production of and the trade in opium.[15] It may be supposed that by banning the production of opium nationwide, the Taliban regime had tried to mitigate its international isolation by meeting one of the main requirements most often reiterated by the community of States. Similarly, the Taliban tried to take steps with regard to the discriminatory policy on grounds of gender, by relaxing the strict ban on female education previously imposed and by re-instituting the celebration of International Women's Day on 8 March.[16] However, these measures, although welcomed, were nearly insignificant in a general context where the conditions of women in the territories subjected to Taliban domination were of institutionalized virtual slavery.

Gender discrimination, together with a generally dramatic disregard of basic human rights, was one of the consequences of extreme religious intolerance that characterized the Taliban regime. Such intolerance included an absolute lack of freedom of expression and a total ban on pictures.[17] It is in this context of obscurantism that a decree promulgated by Mullah Omar on 8 January 2001 laid down the death penalty for Afghans who converted from Islam to Judaism or Christianity.[18]

tries, but it did not experience the grinding poverty typical of ex-colonial societies characterized by a foreign economic dependence that generally magnifies social and economic disparities. In fact, it was characterized by a rural society where human relationships were based on a system of solidarity and mutual help among social groups, which, in principle, maintained a fair distribution of resources (Rubin B. R., 'The Political Economy of War and Peace in Afghanistan', Sweden, 21 June 1999, available at <http://www.afghan-politics.org>, p. 3 f.).

[14] Rubin, *cit.*, p. 6.

[15] Afghanistan is estimated to produce 75 per cent of the world's raw opium, with a harvest estimated at 2,800 tons in 1998 (Suarez, *cit.*; Rubin, *cit.*, p. 10). For the first time, on 27 July 2000, the Taliban supreme leader Mohammed Omar issued a decree imposing a complete ban on opium poppy cultivation in the controlled territory of Afghanistan (UN Doc. A/55/393–S/2000/875, at 45).

[16] UN Doc. A/55/346, at 53–54; UN Doc. E/CN.4/2001/43, at 50.

[17] UN Doc. E/CN.4/2001/43, at 48.

[18] *Id.*, at 56.

Religious extremism and intolerance was not extraneous to the Taliban's decision to promote international terrorism. They hosted and supported Saudi Arabian dissident Osama Bin Laden in his fight against 'imperialism of Western countries', especially by making the Afghan territory available for hosting his training camps for terrorists. This support lay at the origin of the UN Security Council's decision to impose wide economic sanctions against the Taliban[19] and to the concomitant downgrading of diplomatic relations between Afghanistan and Saudi Arabia, which, following the Afghan refusal to extradite Bin Laden, recalled its chargé d'affairs from Kabul.[20] The Taliban leaders' response was that they would not take action against Bin Laden, who was considered a guest in their country, and that any attempt to 'try to change our ideology with economic sanctions will never work, because for us our ideology is first. The sanctions do have an effect, but exactly the wrong effect. The people are suffering'.[21]

UNESCO

Even before the adoption of sanctions by the Security Council the situation in Afghanistan had been the object of discussions within UNESCO with regard to the increasing threats to the cultural heritage of the country. Already in December 1997 the World Heritage Committee, the governing body of the 1972 UNESCO Convention on the Protection of World Cultural and Natural Heritage, at its Naples meeting (under the Chairmanship of Professor Francioni), had adopted a resolution expressing concern at the reports about threats by the Taliban regime with regard to the Buddhist statues of Bamiyan. The resolution, unanimously adopted upon a proposal by Italy, after having stressed that 'the cultural and natural heritage of Afghanistan, particularly the Buddhist statues in Bamiyan [. . .] for its inestimable value, [has to be considered] not only as part of the heritage of Afghanistan but as part of the heritage of humankind', reads as follows:

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[19] UN Security Council Resolution 1333, *cit.*, paras. 4–7; see also UN Press Release SC/6979.

[20] British Immigration & Nationality Directorate, 'Afghanistan Assessment', October 2000, <http://www.ind.homeoffice.gov.uk/default.asp?pageId=162>, at 5.4.34.

[21] These words were pronounced by the Taliban leader Sayed Rahmatullah Hashimi; Suarez, *cit.*

The World Heritage Committee [. . .]

1. Reaffirms the sovereign rights and responsibilities, towards the International Community, of each State for the protection of its own cultural and natural heritage;

2. Calls upon the International Community to provide all the possible assistance needed to protect and conserve the cultural and natural heritage of Afghanistan under threat;

3. Invites the authorities in Afghanistan to take appropriate measures in order to safeguard the cultural and natural heritage of the country;

4. Further invites the authorities in Afghanistan to co-operate with UNESCO and the World Heritage Committee with a view to ensuring effective protection of its cultural and natural heritage [. . .].[22]

The Taliban's 'Cultural Terrorism'

Unfortunately the concern expressed by the World Heritage Committee at the above-mentioned 1997 Naples meeting proved to be well founded. In March 2001, the Taliban regime defiantly announced its decision to put into practice its new form of symbolic politics consisting of the deliberate destruction of cultural heritage representing religious and spiritual traditions different from Islam. Much to the shock of the international community, this decision culminated in the destruction of two ancient Buddha statues, which were carved in sandstone cliffs in the sixth century A.D. in Bamiyan, about 90 miles West of Kabul.[23] The statues, which stood 53 and 36 metres tall respectively, probably represented the most important Afghan cultural treasures. According to press agencies, the destruction of the two Buddhas began on Thursday 1 March 2001.[24] See Plates 14 and 43 which show one of the two statues before and during destruction operations. They remain as a historical witness of such an outrageous act against the heritage of humanity.

[22] UNESCO, Report of the XXIst Session of the World Heritage Committee, Naples, Italy, 1–6 December 1997, doc. WHC-97/CONF.208/17 of 27 February 1998, para. VII.58.

[23] See Hammond 2001.

[24] 'Afghan Taliban Have Begun Smashing Statues', *Reuters* agency, Thursday March 1, 5:08 AM ET, available at <http://www.afghan-politics.org>.

According to the Taliban themselves, the destruction of the two giant statues was perpetrated in pursuance of an edict issued by their supreme leader Mullah Mohammed Omar on 26 February 2001,[25] proclaiming that:

> In view of the fatwa [religious edict] of prominent Afghan scholars and the verdict of the Afghan Supreme Court it has been decided to break down all statues/idols present in different parts of the country. This is because these idols have been gods of the infidels, and these are respected even now and perhaps maybe turned into gods again. The real God is only Allah, and all other false gods should be removed.[26]

After the issuance of the order Mohammed Omar declared that it was to be done for 'the implementation of Islamic order.'[27] Nevertheless, according to a major expert on Islamic religion, the Egyptian Fahmi Howeidy, the Taliban edict was contrary to Islam, since 'Islam respects other cultures even if they include rituals that are against Islamic law.'[28] However, despite the difficulties met by Afghan troops in destroying the solid rock-carved statues,[29] the Taliban Ambassador to Pakistan, Abdul Salam Saif, confirmed on 6 March 2001 that the destruction of all statues, including the two Buddhas, had been completed.[30] (Plate 15).

In addition, according to the Online Center of Afghan Studies, there is clear evidence that the destruction of the two Buddhas was not an isolated incident, but was the peak of a systematic plan, pursued by the Taliban regime, for the complete eradication of the whole Afghan ancient cultural heritage.[31]

After the September 11 terrorist attacks on the United States and the Taliban's refusal to extradite Bin Laden and the suspected

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[25] 'Taliban: Statues Must be Destroyed', *Associated Press* agency, Monday, February 26, 2001, 6:14 PM ET, available at <http://www.afghan-politics.org>.

[26] See also Van Krieken in this Volume, chapter 13. The text of the edict is available at <http://www.afghan-politics.org> (*Associated Press* source).

[27] 'Kabul defends plan to break statues', *France Press* agency, February 27, 2001, available at <http://www.afghan-politics.org>.

[28] 'Taliban gathers explosives to destroy renowned Buddha statues', *Reuters* agency, Friday, March 2, 2001, 4:18 PM, available at <http://www.afghan-politics.org>.

[29] 'Taliban gathers explosives to destroy renowned Buddha statues', *cit.*

[30] 'Taliban stop destruction of the Buddha Statues', *Reuters* agency, Tuesday, March 6, 2001, 23:05, available at <http://www.afghan-politics.org> (on 6 March 2001 the destruction was suspended in order to celebrate an Islamic celebration).

[31] 'Communiqué By the Online Center of Afghan Studies Regarding the Destruction of Afghan National and Archeological Treasures' of 28 February 2001, available at <http://www.afghan-politics.org>.

terrorists, virtually no country has continued to support the Taliban regime. The anti-terror campaign launched by the United States, with the support of many other countries, led to extensive aerial bombardment of the Taliban military and logistic infrastructure and to their final demise in December 2001. Shortly afterwards a coalition government composed of the various factions opposed to the Taliban was formed under the presidency of Hamid Karzai. Subsequent elections confirmed Karzai as President. Parliamentary elections took place in the autumn of 2005. Although all this should be seen as a welcome development, it does not absolve the past regime from crimes connected to complicity in mass terrorism and crimes against culture perpetrated by the deliberate destruction of pre-Islamic heritage in Afghanistan. This question is the more apparent now that the one on the ground in charge of the destruction of the Buddhas has actually been elected to Parliament.

As has already been pointed out above, the acts of systematic and deliberate destruction of cultural heritage perpetrated by the Taliban raise the question of whether such acts are internationally wrongful acts notwithstanding the fact that they were aimed at objects located within the territory and under the effective jurisdiction of the acting government. These and related questions will be addressed in the following section.

The Deliberate Destruction of the Buddha Statues as a Violation of International Law

The evolution of the international protection of cultural heritage which has taken place in the last decades has built upon the idea that cultural heritage is an element of the general interest of the international community. By destroying cultural heritage, a number of international obligations, existing on the basis of codified and/or customary international law, can be assumed to have been broken. Hereafter, attention will be dedicated to the general law of warfare as well as specific UNESCO-originated law.

The Law of Warfare (Codified)

Since Afghanistan was, at the time of the destruction of the Buddhas of Bamiyan, actually involved in a civil war, the present inquiry must

turn to the relevant norms on the protection of cultural heritage during armed conflict.[32] Several conventional instruments, pertaining both to the protection of cultural heritage and *ius in bello* or humanitarian law (the law of warfare), are applicable in this context.[33]

Firstly, the protection of cultural properties was included in the conventions on the laws and customs of war concluded in The Hague between the end of the 19th and the beginning of the 20th century. In particular, article 27 of the Regulations annexed to Convention IV of 1907[34] provided that:

> [i]n sieges and bombardments all necessary steps must be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes.[35]

This provision clearly demonstrates that the protection of cultural heritage constitutes a common concern of the international community.[36] The principle of respecting buildings dedicated to religion, art, science and historic monuments, in short all objects with a cultural background or impact, has been repeated over and over again in subsequent instruments, like the relevant 1929 and 1949 Red Cross Conventions and more recently in the 1993 Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the 1998 Rome Statute of the International Criminal Court.

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[32] Generally on this issue Nahlik 1967: 65 ff.; Panzera 1993; Francioni 1995: 149 ff.; Gioia 2000: 71 ff.

[33] One of the purposes for which the First Hague Peace Conference of 1899 was convened was 'the revision of the declaration concerning the laws and customs of war elaborated in 1874 by the Conference of Brussels, and not yet ratified' (Russian circular note of 30 December 1898). The Conference of 1899 succeeded in adopting a Convention on land warfare to which Regulations are annexed. The Convention and the Regulations were revised at the Second International Peace Conference in 1907 (source: ICRC). On the protection of cultural heritage by international humanitarian law see Nahlik 1986: 237 ff.

[34] Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, available at <http://www.icrc.org/ihl.nsf>.

[35] The same principle is also expressed by article 56 of the Regulation annexed to Hague Convention IV (*cit.*) and article 5 of Convention (IX) concerning Bombardment by Naval Forces in Time of War (available at <http://www.icrc.org/ihl.nsf>).

[36] This circumstance was confirmed in 1935 by the so-called Roerich Pact (Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments, Washington, 15 April 1935, available at <http://www.icrc.org/ihl.nsf>), a regional treaty concluded between the USA and other American States, whose preamble states that 'immovable monuments [. . .] form the cultural treasure of peoples'.

Article 3 of the ICTY statute includes wanton destruction of cities, towns or villages, or devastation not justified by military necessity as well as seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science.[37]

The ICC Statute includes, in its formula of war crimes:

> 8.2.e (iv): Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives.

It can hence be concluded that in the context of international war, the destruction of the Buddhas of Bamiyan would without any doubt be considered a war crime.

Customary Law

It could, however, be argued that not all countries may have ratified or acceded to the instruments concerned. It is in this regard to be emphasized that the main principles of humanitarian law, including the ones mentioned in the above paragraph, have over the years developed into customary law. It might even be submitted that the 1907 agreement was indeed a codification of what already in those days was considered customary law. This means that all parties to a conflict, irrespective of the question whether or not they have ratified or acceded to the relevant law of war instruments, are bound by most of the rules and regulations as laid down in those instruments. The relevant provisions concerning the protection of cultural property belong to this category.

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[37] Article 3 reads in full:

Violations of the laws or customs of war

The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

(a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;

(b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;

(d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;

(e) plunder of public or private property.

Civil War

A further issue concerns the difference between armed conflicts of an international character (i.e. wars between states) and armed conflicts *not* of an international character (i.e. civil wars). It is a fact that not all rules of the law of warfare are applicable during a civil war.

This issue was already raised in the 1949 Geneva Conventions, the main instruments covering international humanitarian law. All these four Conventions, the most relevant instruments regulating the law of war, include the so-called common articles 2 and 3, in which it has been laid down that certain minimum conditions also apply in times of armed conflict 'not of an international character'.[38] The way these *common articles* have been formulated would indicate that it could be argued that the respect for cultural objects would also cover civil war.

In 1977 a Protocol (Protocol II) to the 1949 Conventions was adopted exclusively focusing on civil war situations. Here again it has been emphasized (in article 16, focusing on the protection of cultural objects and of places of worship) that:

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[38] Common Article 3 reads in full:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

> [w]ithout prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, it is prohibited to commit any acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort.

The 1954 Hague Convention

As seen above, Protocol II (1977) to the 1949 Geneva Conventions refers to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, also known as the UNESCO Convention.[39] According to article 19 of this Convention, States parties must apply the provisions which relate to respect for cultural property even in the case of non-international armed conflicts. The Preamble to the Convention also affirms the relevance of the protection of cultural heritage as a global value pertaining to the international community as a whole, proclaiming that:

> damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world,

and that

> the preservation of the cultural heritage is of great importance for all peoples of the world and [. . .] it is important that this heritage should receive international protection.[40]

Although Afghanistan was not party to the 1954 Hague Convention at the relevant time, and its provisions are thus not applicable as conventional norms to the case of the destruction of cultural goods perpetrated by the Taliban, it could be argued that such principles, as expressed by the Hague Convention, had meanwhile obtained the status of 'customary law', thus implying that also non-State parties are considered to be bound by that international rule.[41]

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[39] The full text of the Convention and of its 1954 and 1999 Protocols is available at the UNESCO Web site, at <http://www.unesco.org/culture/laws>.

[40] Generally on the 1954 Convention see Nahlik 1967: 120 ff.; Panzera 1993: 30 ff. and 72 ff.; Gioia 2000: 76 ff.

[41] For the updated list of the parties to the 1954 Convention see the UNESCO Web site, at <http://www.unesco.org/culture/laws>.

In fact, international practice has extended the application of all the main principles of humanitarian law, originally provided for international armed conflicts, to civil wars, ethnic conflicts and conflicts of a non-international character. This is also apparent in the text of the 1999 Second Protocol to the 1954 Hague Convention[42] as well as in the recent statutes of international criminal tribunals and pertinent case law.

Tadic

In particular, the issue of the relationship between international war and civil war, or, more correctly, between armed conflict of an international character and armed conflict *not* of an international character, came to the fore at the ICTY. The main problem faced by the Tribunal consisted of ascertaining what rules of international humanitarian law may be considered as being applicable to non-international armed conflicts (i.e. civil wars). The solution to such a question was essential in view of defining the conditions to be fulfilled for article 3 of the ICTY Statute (covering the destruction of cultural buildings) to be applicable. In this respect the Appeals Chamber ruled that the following requirements must be met for an offence to be subject to prosecution before the ICTY under article 3:

(i) the violation must constitute an infringement of a rule of international humanitarian law;
(ii) the rule must be customary in nature or, if it belongs to treaty law, the required conditions must be met;
(iii) the violation must be 'serious', that is to say, it must constitute a breach of a rule protecting important values, and the breach must involve grave consequences for the victim. Thus, for instance, the fact of a combatant simply appropriating a loaf of bread in an occupied village would not amount to a 'serious violation of international humanitarian law', although it may be regarded as falling foul of the basic principle laid down in Article 46, paragraph 1, of the Hague Regulations (and the corresponding rule

[42] Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, in *ILM*, 1999, p. 769, particularly article 22.1.

of customary international law) whereby 'private property must be respected' by any army occupying an enemy territory; and
(iv) the violation of the rule must entail, under customary or conventional law, the individual criminal responsibility of the person breaching the rule.

The Chamber then concluded that it does not matter whether the 'serious violation' has occurred within the context of an international or an internal armed conflict, as long as the requirements set out above were met.[43]

Thus, following the line of reasoning developed by the ICTY in the *Tadic* case, one may conclude that, with regard to the wilful destruction of the Buddhas of Bamiyan, it is of no importance whether that took place during an international or a non-international armed conflict.

Time of Peace

A last argument concerns the question whether there was an armed conflict at all. It could indeed be argued that the Taliban ruled more than 90% of the country, and that the 'civil war' was limited to skirmishes in the north between the Taliban and the Northern Alliance. Nevertheless, even if an armed conflict could not be considered to actually exist at the time of the destruction of the Buddhas, this would not exclude the fact that such behaviour would amount to a breach of international law, on account of the existence of international rules applicable to such kinds of acts in times of peace.

First of all, this assertion may be based on the fact that, according to the latest developments in international criminal law, it is today considered that 'crimes against humanity' can been committed even in times of 'peace'. This, at least, has been laid down in the Rome Statute 1998, a Statute that heavily leans on the ICTY Statute, but is far more authoritative as it is the basis for the International Criminal Court (ICC), a Court that is in principle able to deal with offences committed anywhere, and not just in limited territories (such as the tribunals for Yugoslavia, Rwanda or, ultimately, Sierra Leone).

[43] Decision of 2 October 1995, *Prosecutor v. Dusko Tadic* a/k/a 'DULE', Decision on the defence motion for interlocutory appeal on jurisdiction, para 94.

Of interest in this regard is that the destruction of places of worship in the context of efforts to destroy or ban a religion was considered by the ICTY as a *crime against humanity* (see below); this is a welcome development, which could have an impact on the evaluation of individual responsibility in the event of possible future cases of deliberate destruction of cultural heritage.

Yet another argument concerns a customary norm banning the intentional destruction of cultural heritage. Such a norm is to be found in the principle according to which cultural heritage constitutes part of the general interest of the international community as a whole. This principle belongs to the general category of norms establishing *erga omnes* obligations, a category enunciated by the International Court of Justice in the well-known Barcelona Traction case.[44] In this case the Court distinguished between norms that create bilateral obligations of reciprocal character, binding upon individual States inter se, and norms that create international obligations *erga omnes*, or obligations owed to the generality of States in the public interest. This category includes the norms concerning the prohibition of force, the protection of basic human rights, or the protection of the general environment against massive degradation. In our view, the prohibition of acts of wilful and systematic destruction of cultural heritage of great importance for humanity also falls within the category of *erga omnes* obligations. There are several manifestations of international practice which confirm the existence of such an obligation. As early as 1907, the Hague Conventions on land warfare and on naval bombardment proclaimed the principle that historic monuments and buildings dedicated to art and science ought to be spared from military violence.[45] The Roerich Pact of 1935 went further to proclaim the principle that museums, monuments, and scientific and cultural institutions are to be protected as part of the 'common heritage of all people'.[46] UNESCO has systematically restated this principle since the early 1950s. One can cite, among the several pertinent UNESCO

[44] *Barcelona Traction, Light and Power Co.* case, *ICJ Rep.*, 1970, 3, pp. 33–34.

[45] Respectively articles 27 and 56 of the Regulations annexed to The Hague Convention IV and article 5 of Convention (IX) concerning Bombardment by Naval Forces in Time of War, *cit.*

[46] *Supra*, note 36.

recommendations,[47] the 1956 UNESCO Recommendation on International Principles Applicable to Archeological Excavations,[48] and the Preamble, as well as article 4, of the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict.[49] More specifically, the idea of an international public interest in the safeguarding of cultural heritage is expressed by the 1972 World Heritage Convention, whose Preamble states that:

> the existing international conventions, recommendations and resolutions concerning cultural and natural property demonstrate the importance, for all the peoples of the world, of safeguarding this unique and irreplaceable property, to whatever people it may belong [. . .] [P]arts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole.

The 1972 World Heritage Convention

The destruction of cultural heritage gives rise to a breach of duties which bind Afghanistan as a result of its accession to the 1972 World Heritage Convention.[50] Afghanistan acceded to this Convention in 1979. According to the Preamble of this Convention:

> deterioration or disappearance of any item of [. . .] cultural [. . .] heritage constitutes an harmful impoverishment of the heritage of all the nations of the world.

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[47] For a detailed examination of the relevant part of these recommendations see Francioni, 'Patrimonio culturale, sovranità degli Stati e conflitti armati', *cit.*, p. 152 f.; Id., 'Principi e criteri ispiratori per la protezione internazionale del patrimonio culturale', in Francioni, Del Vecchio & De Caterini (eds.), *cit.*, p. 14 f. (the author notes that the relevance of these recommendations, for the formation of a customary norm in this field, is given by their reiterate repetition and by the fact that they have been adopted by the UNESCO General Conference, which represents almost all members of the international community).

[48] Available in the UNESCO Web site, at <http://www. unesco.org/culture/laws/archaeological/html_eng/page1.shtml> (in particular, the fourth sentence of the Preamble).

[49] *Supra*, note 39.

[50] For the text of the World Heritage Convention (1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage) see the UNESCO web site, at <http://www.unesco.org/whc/world_he.htm>. Afghanistan ratified the Convention on 20 March 1979 (see <http://www.unesco.org/whc/sp/afg.htm>).

It is important to point out that, although at the relevant time there were no Afghan properties inscribed on the World Heritage List,[51] article 12 of the Convention expressly states that:

> [t]he fact that a property belonging to the cultural or natural heritage has not been included in either of the [World Heritage List or the List of World Heritage in Danger] shall in no way be construed to mean that it does not have an outstanding universal value for purposes other than those resulting from inclusion in these lists.

This provision must be read in connection with article 4, which points out that:

> the duty of ensuring the [. . .] protection, conservation, presentation and transmission to future generations of the cultural [. . .] heritage [. . .] situated on [the] territory [of each State Party to this Convention], belongs primarily to that State.

The joint reading of these provisions makes it clear that membership in the World Heritage Convention binds States Parties to conserve and protect their own cultural properties even if they are not inscribed in the World Heritage List.

As for the Bamiyan Buddhas, there is no doubt that they were to be considered as included in the concept of cultural heritage relevant to the Convention.[52] Regardless of whether they met the text of 'outstanding universal value' set forth in article 1, the Buddhas were certainly 'works of monumental sculpture' of generally recognized historical importance. There can be no doubt that the deliberate, wanton destruction of the great Buddhas is inconsistent with the letter and spirit of the 1972 Convention. The World Heritage Committee in the already cited resolution adopted in 1997 had considered the

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[51] After the destruction of the Buddhas of Bamiyan the World Heritage Committee inscribed in the List the Minaret and Archaeological Remains of Jam in 2002 (see <http://whc.unesco.org/pg.cfm?cid=31&id_site=211>) and the Cultural Landscape and Archaeological Remains of the Bamiyan Valley (the one in which the two Buddhas were located) in 2003 (see <http://whc.unesco.org/pg.cfm?cid=31&id_site=208>).

[52] Article 1 of the World Heritage Convention. The fact that the Bamiyan Buddhas are included in the concept of cultural heritage as protected by the Convention is also demonstrated by the inclusion in the World Heritage List of a similar site, that is the Chinese *Mt. Emei and Leshan Giant Buddha*, inscribed by the World Heritage Committee in 1996 (see UNESCO Doc. WHC-96/CONF.201/21 of 10 March 1997).

statues to be of 'inestimable value' and 'not only part of the heritage of Afghanistan but as part of the heritage of humankind'.[53]

In a gesture laden with symbolic value this characterization was confirmed by the World Heritage Committee's decision, in July 2003, to inscribe the remains of the two giant Buddhas and the area of Bamiyan in the World Heritage List, as cultural heritage of outstanding universal value pursuant to the World Heritage Convention. The Committee justified such an inscription by reference to the value of the Bamiyan valley as, *inter alia*, an exceptional testimony to the interchange of different cultures and to a cultural tradition which has disappeared, while the statues themselves, although actually destroyed, were to be considered an outstanding representation of Buddhist art.[54]

A duty to preserve, and *a fortiori* not to deliberately destroy cultural heritage is also reflected in the 1972 UNESCO Recommendation Concerning the Protection, at National Level, of the Cultural and Natural Heritage.[55] The Preamble of this Recommendation states that:

> every country in whose territory there are components of the cultural [. . .] heritage has an obligation to safeguard this part of mankind's heritage and to ensure that it is handed down to future generations.

and that

> knowledge and protection of the cultural [. . .] heritage in the various countries of the world are conducive to mutual understanding among the peoples.

[53] *Supra*, note 22 and the corresponding text.

[54] The Committee inscribed the valley of Bamiyan on the basis of the following criteria: *Criterion (i)*: The Buddha statues and the cave art in Bamiyan Valley are an outstanding representation of the Gandharan school in Buddhist art in the Central Asian region; *Criterion (ii)*: The artistic and architectural remains of Bamiyan Valley, and an important Buddhist centre on the Silk Road, are an exceptional testimony to the interchange of Indian, Hellenistic, Roman, Sasanian influences as the basis for the development of a particular artistic expression in the Gandharan school. To this can be added the Islamic influence in a later period; *Criterion (iii)*: The Bamiyan Valley bears an exceptional testimony to a cultural tradition in the Central Asian region, which has disappeared; *Criterion (iv)*: The Bamiyan Valley is an outstanding example of a cultural landscape which illustrates a significant period in Buddhism; *Criterion (v)*: The Bamiyan Valley is the most monumental expression of western Buddhism. It was an important centre of pilgrimage over many centuries. Due to their symbolic values, the monuments have suffered at different times of their existence, including the deliberate destruction in 2001, which shook the whole world.

[55] 1972 UNESCO Recommendation concerning the Protection, at National Level, of The Cultural and Natural Heritage, available at <http://www.unesco.org/culture/laws/national/html_eng/page1.shtml>.

If one considers the very high rate of ratification of the World Heritage Convention,[56] as well as the authoritative character of UNESCO Recommendations, which really represent the near totality of the nations of the world that participate in the General Conference, it is not possible to deny that a general *opinio juris* exists in the international community on the binding character of the principles prohibiting the deliberate destruction of cultural heritage of significant importance for humanity. This conclusion is reinforced by the fact that the protection of cultural heritage as a matter of public interest, and not only as part of private property rights, is recognized in most of the mature domestic legal systems of the world. No civilized State, in the sense of article 38(c) of the Statute of the International Court of Justice, recognizes the right of the private owner of an important work of art to destroy it as part of the exercise of a supposedly unlimited right of private property. Catalogues and inventories of national treasures are generally intended to limit such private rights in view of safeguarding the public interest to the conservation and transmission of the cultural patrimony to future generations.[57] In the case of the Buddhas of Bamiyan, the injury to the international public interest, which consisted of the conservation of the monuments and the prevention of their destruction, was all the more apparent because: a) the destruction was motivated by invidious and discriminatory intent; b) it was systematic; and, c) it was carried out in blatant defiance of the appeals coming from UNESCO, the UN, ICOMOS, and many individual States.

Individual Responsibility

The customary character of the prohibition on the destruction of cultural heritage (more precisely the 'destruction or wilful damage to institutions dedicated to religion') during armed conflicts has been expressly confirmed by the ICTY. It should then be underlined that individuals can be held responsible for such acts. Both the ICTY and the ICC statutes confirm that, e.g., the wilful destruction of cultural objects may give rise to individual responsibility. This has been

[56] The 1972 World Heritage Convention has been ratified by 178 States (updated 1 May 2004); see <http://www.unesco.org/whc/nwhc/pages/doc/main.htm>.
[57] Sax 1999.

laid down in article 7 of the ICTY Statute[58] and articles 25–33 of the ICC Statute.[59]

The ICTY ruled in various cases that individuals may actually be considered to be responsible for crimes against cultural property. For instance, Dario Kordic and Mario Cerkez were condemned for their deliberate armed attacks on ancient mosques in Bosnia Herzegovina.[60] According to the Tribunal, the act in point,

> when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of 'crimes against humanity', for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects [. . .] [thus] amount[ing] to an act of persecution.[61]

The Hague Tribunal thus holds that this kind of crime may amount to an act of persecution included in the concept of 'crimes against humanity' provided for by article 5(h) of the Statute.[62] In doing so

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[58] Article 7 reads:

Individual criminal responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

2. The official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal determines that justice so requires.

[59] See for detailed information on the ICTY and the ICC Van Krieken & McKay 2005: chapters 9 and 11.

[60] *Prosecutor v. Dario Kordic and Mario Cerkez*, judgement of 26 February 2001 (Trial Chamber), available at the ICTY Web site, at <http://www.un.org/icty> (see also the judgement of the Appeals Chamber of 17 December 2004, available at <http://www.un.org/icty/kordic/appeal/judgement/cer-aj041217e.pdf>); In particular, para. 206, in which the Trial Chamber states that the act of destruction or wilful damage to institutions dedicated to religion 'has [. . .] already been criminalised under customary international law'.

[61] *Id.*, para. 207.

[62] The full text of the Statute of the ICTY is available at <http://www.un.org/icty/basic/statut/statute.htm>.

the Tribunal confirmed what it had already stated in one of its earlier judgements.[63] The same conclusion had been previously reached by the Nuremberg International Military Tribunal[64] and the International Law Commission.[65]

In addition, with regard to the shelling of the old town of Dubrovnik carried out by the Yugoslav Forces (JNA) on 6 December 1991, the ICTY held that:

> the crime of destruction or wilful damage done to institutions dedicated to religion, charity, education, and the arts and sciences, and to historic monuments and works of art and science [. . .] represents a violation of values especially protected by the international community,[66]

adding that

> the shelling attack on the Old Town was an attack not only against the history and heritage of the region, but also against the cultural heritage of humankind[67] [. . .] since it is a serious violation of international humanitarian law to attack civilian buildings, it is a crime of even greater seriousness to direct an attack on an especially protected site, such as the Old Town.[68]

In early 2005 this line of thinking was confirmed in the *Strugar* case on the account of, *inter alia*, the acts of wilful destruction perpetrated against the Dubrovnik inner city. The Court found Strugar guilty, pursuant to Article 7(3) of the Statute, of two of the six original counts: Count 3, Attacks on civilians, a violation of the laws or customs of war, under article 3 of the Statute; Count 6, Destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works or art and

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[63] *Prosecutor v. Tihomir Blaskic*, judgement of 3 March 2000, para. 227, available at the ICTY Web site, at <http://www.un.org/icty>.

[64] *Nuremberg Judgement*, pp. 248 and 302, quoted by the ICTY in *Prosecutor v. Dario Kordic and Mario Cerkez, cit.*, para. 206, note 267.

[65] *Report of the International Law Commission on the work of its 43rd session*, 29 April–19 June 1991, doc. A/46/10/Suppl. 10, p. 268, according to which the 'systematic destruction of monuments or buildings representative of a particular social, religious, cultural or other group' is included in the concept of persecution.

[66] *Prosecutor v. Miodrag Jokić*, judgment of 18 March 2004, available at <http://www.un.org/icty>, para. 46.

[67] *Id.*, para. 51 (emphasis added).

[68] *Id.*, para. 53. The Old Town of Dubrovnik has been inscribed in the UNESCO World Heritage List since 1979 (see <http://whc.unesco.org/sites/95.htm>).

science, a violation of the laws or customs of war, under article 3 of the Statute.[69] The Chamber, in sentencing Strugar to a single sentence of only eight years' imprisonment, took into account, in particular, his age, health, and other mitigating factors.

In conclusion, it may be argued that, on the basis of relevant international law (taking into account the case law of the ICTY), the destruction of the Buddhas of Bamiyan may be considered as a crime under international law, entailing, in principle, both State and individual responsibility.[70]

This approach has been confirmed by the text and the spirit of the Declaration Concerning the Intentional Destruction of Cultural Heritage, adopted by the UNESCO General Conference on 17 October 2003,[71] precisely as a reaction to the destruction of the two giant Buddhas of Bamiyan.[72] The first sentence of the Preamble affirms that the destruction of the Buddhas 'affected the international community as a whole.'[73] The sixth sentence reiterates 'one of the fundamental principles of the Preamble of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict', according to which 'damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind'. Article I affirms the recognition by the international community of 'the importance of the protection of cultural heritage', and its commitment 'to fight against its intentional destruction' in

[69] Strugar was hence *not* considered guilty of the other 4 counts: (1) Murder; (2) Cruel Treatment; (4) Devastation not justified by military necessity; and (5) Unlawful Attack on Civilian Objects.

[70] For a thorough discussion (with different conclusions) of the problem whether individual criminal liability is an aspect of State responsibility or is totally autonomous, Dupuy 2002: 1085 ff.; Maison 2000: *passim*.

[71] The full text of the Declaration is available at the UNESCO Web site, at <http://www.unesco.org>; for a critical comment see Lenzerini F., 'The UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage: One Step Forward and Two Steps Back', in 13 (2003) *Italian Yearbook of International Law*, 2005, p. 131 ff.

[72] The very first sentence of the Preamble reads as follows: '[r]ecalling the tragic destruction of the Buddhas of Bamiyan that affected the international community as a whole'. As already noted, the first version of the present chapter was elaborated, at the request of UNESCO, as a report having the purpose of investigating the status of international law concerning the matter of the deliberate destruction of cultural heritage in view of defining, at a preliminary stage, the possible content of an international instrument condemning such kind of act; the 2003 UNESCO Declaration is actually that instrument.

[73] See the previous note.

view of ensuring its transmission to 'the succeeding generations'. To this end, article III recommends that States should take 'all appropriate measures to prevent, avoid, stop and suppress acts of intentional destruction of cultural heritage, wherever such heritage is located'; such duty is to be complied with both in peacetime and in the event of armed conflict ('in conformity with customary international law'), including the cases of internal wars and occupation.[74] The Declaration also affirms the responsibility of every State which 'intentionally destroys or intentionally fails to take appropriate measures to prohibit, prevent, stop, and punish any intentional destruction of cultural heritage of great importance for humanity',[75] as well as individuals who commit, or order to be committed, acts of deliberate destruction of such heritage.[76]

The deliberate and systematic destruction of cultural properties of pre-Islamic Afghanistan and, more particularly, of the Bamiyan Buddhas, in so far as this heritage constituted a representation of both a religious belief and of the cultural identity of a people, could finally be envisaged as a violation of certain human rights, namely the right to the preservation of one's own culture and the right to practice and obtain respect for one's own religion.[77] The destruction of religious symbols is certainly inconsistent with the obligation to respect cultural diversity and with religious tolerance. These arguments remain valid, for even if the Buddhas of Bamiyan were no longer actively functional in the practice of religious rights, they nevertheless embodied an important testimony of past religious traditions and of cultural exchange among the peoples of Asia.

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[74] Articles IV and V.

[75] Article VI. The provision specifies that such responsibility exists irrespective of the fact that the cultural heritage concerned 'is inscribed on a list maintained by UNESCO or another international organization'.

[76] Article VII (containing the same specification included in article VI; see the previous note).

[77] The freedom of religion, which includes the right to freely manifest one's own religion in worship, observance, practice and teaching, is laid down by the main international conventional instruments on human rights; see, *inter alia*, article 18(1) of the 1966 *International Covenant on Civil and Political Rights* (UNTS, vol. 999, p. 171 ff.), article 9(1) of the 1950 European Convention on Human Rights (*European Treaty Series*, No. 5), and article 12(1) of the 1969 American Convention on Human Rights (*O.A.S. Treaty Series* No. 36). See also article 18 of the Universal Declaration of Human Rights and the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief (General Assembly res. 36/55 of 25 November 1981, available at http://www.unhchr.ch/html/menu/3/b/d_intole.htm).

The Perspectives of Afghan Cultural Heritage after the Eradication of the Taliban Regime

The new Afghan Constitution, which entered into force on 4 January 2004,[78] paved the way for democracy in Afghanistan. The principles of 'social justice, protection of human dignity, protection of human rights and realization of democracy' represent the basis on which the State 'is obliged to create a prosperous and progressive society'.[79] In the Presidential elections of 9 October 2004 (when also women exercised the right to vote) the interim-president Hamid Karzai, an ethnic Pashtun and a member of the powerful Populzai clan (from which many Afghan kings originated),[80] defeated his twenty-two opponents and became the first democratically elected leader of Afghanistan.

Among its duties, the new government is required to 'devise effective programs for the promotion of science, culture, literature and the arts'.[81] In performing this task, the Afghan authorities are strongly supported by UNESCO which, immediately after the defeat of the Taliban regime, started to take concrete actions concerning Afghan cultural heritage. Two Afghan properties were inscribed in the World Heritage List, i.e. the Minaret and Archeological Remains of Jam in 2002[82] and the Cultural Landscape and the Archaeological Remains of the Bamiyan Valley in 2003.[83] Both sites were also inscribed on the List of World Heritage in Danger,[84] and are thus the object of special monitoring by UNESCO. Also, since 2002 a special fund for

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[78] The text of the new Afghan Constitution is available at <http://www.oefre.unibe.ch/law/icl/af00000_.html>.

[79] Article 6 of the Constitution.

[80] 'Hamid Karzai', from Wikipedia, available at <http://en.wikipedia.org/wiki/Hamid_Karzai>.

[81] Article 47 of the Constitution.

[82] The property of the Minaret and Archeological Remains of Jam, which is located in the Ghur Province of the Shahrak District (in the western-central part of the country), was inscribed in the World Heritage List for the following criteria: '[t]he innovative architecture and decoration of the Minaret of Jam played a significant role in the development of the arts and architecture of the Indian subcontinent and beyond' (*Criterion (ii)*); '[t]he Minaret of Jam and its associated archaeological remains constitute exceptional testimony to the power and quality of the Ghurid civilization that dominated its region in the 12th and 13th centuries' (*Criterion (iii)*); '[t]he Minaret of Jam is an outstanding example of Islamic architecture and ornamentation in this region and played a significant role in their further dissemination' (*Criterion (iv)*). See <http://whc.unesco.org/en/list/211>.

[83] *Supra*, note 54.

[84] In particular, the Archaeological Remains of the Bamiyan Valley were inscribed on the List of World Heritage in Danger due to the fact that '[t]he property is in

'Emergency Assistance Package for Afghanistan' has been used for the reconstruction of inventories of Afghan heritage and archival resources with assistance from the World Heritage Centre, IUCN, ICCROM and ICOMOS.[85] To date, 2,800 archeological areas (including 200 historic monuments) have been registered by the Department of Monuments and Sites.[86] On 3 December 2002 a 'National Council for the Protection of Afghan Cultural Heritage' was established; it is presided over by Prince Mirwais and is composed of governmental officials and cultural experts.[87] Last but not least, several proposals have been made concerning the possible reconstruction of the Buddhas of Bamiyan,[88] and various initiatives have been developed (with the help of, inter alia, the Greek government and some European museums and NGOs) for restoring the Kabul Museum and its collections.[89]

These initiatives (among others) represent the first steps in the process of the revivification of a cultural heritage seriously damaged by years of blind fanaticism and iconoclasm. However, in view of actually attaining such an outcome, it is necessary that other important measures are urgently carried out. In particular, 'emergency excavations' (possibly with international assistance) must be developed with the purpose of preventing illicit excavations from archaeological sites and the consequent definitive loss of irreplaceable cultural heritage.[90] Also, the greatest possible participation and involvement on the part of local communities in the management of national cultural

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a fragile state of conservation considering that it has suffered from abandonment, military action and dynamite explosions. The major dangers include: risk of imminent collapse of the Buddha niches with the remaining fragments of the statues, further deterioration of still existing mural paintings in the caves, looting and illicit excavation. Parts of the site are inaccessible due to the presence of antipersonnel mines'. <http://whc.unesco.org/en/list/208>.

[85] 'Application of the World Heritage Convention by the States Parties. Afghanistan', available at <http://whc.unesco.org/archive/periodicreporting/cycle01/section1/af-summary.pdf>

[86] *Id.*

[87] *Id.*

[88] See also Van Krieken in this Volume, chapter 13 and *e.g.*, Gruen, Remondino & Zhang 2002.

[89] See SPACH's contribution in this volume, chapter 1. And also 'Kabul Museum: Keeping Afghanistan's Culture Alive', UNESCO, the new courier, n. 1, October 2002, available at <http://portal.unesco.org/en/ev.php-URL_ID=6650&URL_DO=DO_TOPIC&URL_SECTION=201.html>.

[90] 'Application of the World Heritage Convention by the States Parties. Afghanistan', *cit.*

property must be guaranteed, so as to ensure that they envisage such property as the heritage in which their own roots and cultural identity are reflected. This would represent the best guarantee for preventing any future revival of those obscurantist cultural policies that led to the despicable destruction of the Buddhas of Bamiyan.

References

Boylan, P. 1993 *Review of the Convention for the Protection of Cultural Property in the Event of Armed Conflict*, UNESCO, Paris.

Cassese A., P. Gaeta & J. R. W. D. Jones 2002 *The Rome Statute of the International Criminal Court. A Commentary*, Oxford.

Francioni, F. & F. Lenzerini 2003 'The Destruction of the Buddhas of Bamiyan and International Law', in *The European Journal of International Law*, 14, 619–652.

—— 2005 'The Obligation to Prevent and Avoid Destruction of Cultural Heritage. From Bamiyan to Iraq', in *Art and Cultural Heritage. Law, Policy and Practice*, B. T. Hoffman. (ed.), Cambridge.

Francioni, F. 1995 'Patrimonio culturale, sovranità degli Stati e conflitti armati', in *Beni culturali di interesse religioso*, G. Feliciani (ed.), Bologna.

Gioia A. 2000 'La protezione dei beni culturali nei conflitti armati', in *Protezione internazionale del patrimonio cultural. Interessi nazionali e difesa del patrimonio comune della cultura*, F. Francioni, A. Del Vecchio & P. De Caterini (eds.), Milano.

Gruen A., F. Remondino & L. Zhang 2002 'The Reconstruction of the Great Buddha of Bamiyan, Afghanistan', ICOMOS International Symposium, Madrid, December 2002, (available on http://www.photogrammetry.ethz.ch/general/persons/fabio/icomos.pdf).

Hammond, N. 2001 'Cultural Terrorism', in *The Wall Street Journal*, March 5, 2001, (available on http://hss.fullerton.edu/comparative/wsj_bamian.htm).

Maison R. 2000 'La responsabilité individuelle pour crime d'État en droit international public', thesis at the University of Paris.

Nahlik S. E. 1986 'Protection des biens culturels', in *Les Dimensions Internationales du Droit Humanitaire*, AA. VV Paris.

—— 1967 'La protection internationale des biens culturels en cas de conflit armé', in *Recueil des Cours*, 120, 1.

Panzera, A. F. 1993 *La tutela internazionale dei beni culturali in tempo di guerra*, Torino.

Saikal A. & R. Thakur 2001 'Vandalism in Afghanistan and No One to Stop it', in *The International Herald Tribune*, 6 March 2001, (available on http://www.unu.edu/hq/ginfo/media/Thakur38.html).

Sax J. L. 1999 *Playing Darts with a Rembrandt. Public and Private Rights in Cultural Treasures*, Ann Arbor.

UNESCO 2002 'Kabul Museum. Keeping Afghanistan's Culture Alive', *The New Courier*, 1, October 2002, (available on http://portal.unesco.org/en/ev.php-URL_ID=6650&URL_DO=DO_TOPIC&URL_SECTION=201.html).

Van Krieken P. J. & D. McKay, (eds.) 2005 *The Hague. Legal Capital of the World, The Hague*, Cambridge.

PART FOUR

A GLOBAL IMPACT

CHAPTER SIXTEEN

LOOTING, THEFT AND THE SMUGGLING OF CULTURAL HERITAGE: A WORLDWIDE PROBLEM

Jos van Beurden

Every country and every nation has them: cultural monuments and objects. They are expressions of culture and connections to the past. Some of these monuments and objects are important because they are unique, others because of their aesthetic value. All over the world there is such a vast reservoir of this cultural heritage that no description of its variety and quality can do it proper justice.

Through the ages the appreciation of cultural monuments and objects can change. What is not considered worthwhile in one period can become important in another. For example, from 1900 onwards the Angkor Wat temple complex has been—with interruptions—a point of pilgrimage in the Kingdom of Cambodia. The complex, which was built between the ninth and 14th centuries, was originally the centre of a major empire, but when that empire was invaded by a Thai army, the Angkor temple complex, except for the main Angkor Wat temple, was 'abandoned'. It lost its magic powers. There was a short revival in the 16th century. After that, the temples began to crumble and a great deal of damage occurred. Around 1900 Western visitors rediscovered the temples and began to restore them.[1] This process of restoration is still ongoing. In 2005, the temple complex attracted more than six hundred thousand visitors, among them many Cambodian pilgrims as well as tourists from other Asian countries and the West.

Another example is the Slovenski Etnografski Muzej which opened in December 2004. Next to its exhibition halls, this ethnographic museum has workshops for weaving and ceramics—to satisfy Slovenia's need to 'rediscover and stress its own identity', as the supervisor of the ceramics workshop told me. He and his assistants take old

[1] Claude 1999: 158.

Slovenian motifs and modify them for contemporary use. 'We have been neglecting this for decades', he said.[2]

Even in the same period, people can differ about the value of cultural monuments and objects. In 1925, the City Council of Baghdad wanted to demolish a famous 14th century mosque as part of a street-widening programme, as Usam Ghaidan and Nayab Al-Dabbagh have discovered. A public campaign, supported by the media, forced the Council to reverse its decision. When the Mayor addressed the campaigners, he said: 'We are willing to build a bigger and better mosque in its place, of concrete. That you prefer an old ruin over a modern concrete building is truly astounding.'[3]

Extent of the Looting, Theft and Smuggling

Most countries have defined by law what constitutes their cultural heritage, and formulated laws and legal procedures to protect it. This is not a recent phenomenon. In Bolivia, for example, the first law dates from 1906, when the Tiahuanaco ruins and Lake Titicaca were declared national property. Brazil obtained its first law in this respect in 1937, when the Historic and Artistic Patrimonial Service was created, which had to carry out the control, inventory, protection and preservation of the country's cultural heritage. Colonial powers formulated rules as well. In Cambodia this occurred in 1925 under French rule. Nigeria's first law for the protection of its archaeological materials dates back to the British rulers' discovery of the importance of Nok terracotta statues.

Apparently, such protection is necessary. Many of the treasures that constitute part of the cultural heritage are attractive either for nationals or for foreigners. Bronzes and terracottas from China, Buddha statues from Southeast Asia, Inca ceramics from Peru, archaeological objects from the Niger Valley in West Africa—they often fascinate foreigners and satisfy their hunger for beauty and for exotica. In many cases, however, the need to possess such an object or part of a monument is stronger than the respect for the local law. In a *tour du monde* it will be shown that, to varying degrees, this is a worldwide problem.

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[2] Communication with Urban Magusar from the museum, July 27, 2005.
[3] Ghaidan & Al-Dabbagh 2004/2005: 111.

Asia

At present, the situation of China's cultural heritage is problematic, though it is not the first time that this has been in danger. In the aftermath of the 1860 Opium War, British soldiers took large quantities of war booty, including many cultural treasures. Another attack occurred around 1900, when explorers such as Sven Hedin from Sweden, Aurel Stein from Great Britain, Albert von Le Cocq from Germany and others explored the Silk Road through Central China and took tons of wall paintings, manuscripts, sculptures and other treasures from the lost cities along that road, as Peter Hopkirk has described extensively.[4] The Chinese experienced both events as a humiliation, which is still felt. After that, until 1980, the situation was rather stable. There was relatively little illicit excavation and trade.

Then a new wave of looting began. According to He Shuzhong, Director of the Division of Legislation and Policy of the National Administration of Cultural Heritage, it was caused by the Chinese Reform and Opening policy. People tried to make money out of their ancient treasures. He writes 'Very soon, antiquities could be exchanged for $20 or $50, a fair sum for a poor peasant teacher, and the illicit traffic began, especially in West and Central China'. 'This was the situation in 1985. In 1988 internationally organized groups had appeared . . . In 1990, copies of books like Sotheby's *Art Market Review* could be found even in very poor areas.' Some local employers thought that this trade could help local people, and they 'began to establish antiquities trade areas and auction houses'. In 1992 the first auction house appeared, by 1995 there were 'at least 200'.[5]

There is another problem in China, and that is Tibet. The Chinese authorities have not respected the cultural heritage of the Buddhists of Tibet. Shortly after a Tibetan revolt in 1959 the disappearance and dismantling of more than 6,000 monasteries began. By the start of the Cultural Revolution in 1966, most had been emptied. Individual Tibetans also saw their Buddhist artworks in household shrines and their ancient jewellery confiscated. 'Many years later the fate of most

[4] Hopkirk 1985.
[5] Shuzhong 2001: 19.

Tibetan art is unknown', writes the Times of Tibet. 'Many of the most valuable statues and thankas were sold on the international art market.' Many gold, silver, brass and copper statues 'were undoubtedly melted down', while 'many thousands of thankas were reportedly burned'. The newspaper argues that 'many hundreds of thousands' of statues were involved in the looting.[6] The government remedy has been to restore some of the monasteries, though critics argue that this is not being done to reinstate religious sites but to create heritage attractions. 'Tibet is being turned into a theme park', as one of them said.[7]

Cambodia provides another example of disappearing heritage. The country has a vast cultural heritage, mostly consisting of temple complexes. The best known is Angkor Wat. The first documented looting occurred there in 1924. The problem became serious in the 1950s and 1960s, as Masha Lafont describes, 'when more Western tourists, businessmen, and diplomats travelled to the Far East'. It achieved a global scale in the 1970s when 'Cambodian refugees who lived in the camps near the Thai border were trained to go into the temples to look for whole statues and torsos and heads of statues. Now, with the war at an end, the situation remains the same.'[8] Literally, no temple is left without damage. Quoting an article from the *Cambodia Daily*, Lafont concludes: 'In the last 25 years, Cambodia has lost ten times more statues than in the past twelve centuries. Cambodian authorities assume that since 1986 more than half of the nation's heritage has been stolen from the country.'[9] Those who visit Angkor Wat can easily see the situation for themselves. Empty positions on the large temple walls, where once lovely *apsaras* tried to please, and emptied pedestals with the remnants of stone statues. When entering the hall of the Thousand Buddhas in the main temple in January 2004, I did not expect to see literally one thousand Buddha statues, but, after carefully counting those present, my total did not come to more than 25. Ten of them were in relatively good condition. The other fifteen had been decapitated. All the rest had disappeared.

[6] Times of Tibet, June 28, 2005.
[7] Hunt 2005.
[8] Lafont 2004: 2.
[9] *Op. cit.* 67.

Africa

Turning to Africa, the picture is not much different. Major losers are countries in West Africa such as Nigeria, Burkina Faso and Mali. In her detailed study of the illicit excavation and sale of Mali's anthropomorphic terracottas, Cristiana Panella distinguishes four periods of loss. The first one began with the discovery of the terracottas by colonial officials in the late 19th century and early 20th century. The second period started in the 1970s, when the export really began. The third period was in the 1980s, during which time the status of the terracottas increased and with it their prices on the international art market. At that time 'it was normal to see groups of diggers excavating hills, even close to asphalted roads.'[10] The fourth and last period began in the 1990s, after the Government of Mali had begun to adopt countermeasures and the first arrests of illicit diggers had been made. By then, the country had been robbed of most of its archaeological treasures. Two-thirds of the archaeological sites around the ancient city of Djenné had been visited by illicit diggers.

Ethiopia offers an exceptional example in Northeast Africa. It has a rich cultural heritage, ranging from rock paintings and archaeological sites to fortifications, richly decorated churches and monasteries, and palaces. The country has seven sites on the World Heritage List. In the 19th and 20th century confrontations with foreign troops, it lost important national treasures. In 1868, British soldiers defeated the emperor Tewodros and ransacked his palaces. They took much war booty away with them. Then in 1937 Italian troops took hold of an obelisk in the northern city of Axum and transported it to Rome.[11] Since the late 1960s there has been a continuous illicit export of cultural treasures.

Latin America

The remains of several important civilizations can be found in Latin America, including those of the Aztecs in Central America and the Inca in the Andean countries. As a result the continent has a rich and varied pre-Columbian cultural heritage. Colonial settlement from

[10] Panella 2002: 193.
[11] See for the return below.

the 16th century onwards added to this heritage, while in the post-colonial era most of the countries have produced new art expressions. Undoubtedly a great deal of damage has occurred.

Peru is one of the countries which has lost much of its heritage. So many tombs have been desecrated that if one flies over certain areas one gets the impression of a moonscape with craters. Many sites have been destroyed. A government official speaks about 'desecrators, led by blind greed' who 'use tractors to destroy tombs in order to extract gold and silver objects . . . It is a borderless network which does not cease in the face of criminal action and methods.'[12] Sidney Kirkpatrick has described the looting of royal tombs of the Moche civilization in Peru. Thousands of objects have been excavated; many of them have been smuggled out of the country and have ended up in North America or the UK. The police once found 1,200 items at a private residence and 27 others in a museum in the US.[13]

Neighbouring Colombia is in a similar situation. In 1992 the plundering of a cemetery at Hacienda Malagana was reported. Some 5,000 people removed around 160 kg of gold. One digger, *haquero*, was killed. 'Hundreds of tombs were destroyed in this one incident, and presumably it is a loss that has been repeated many times over throughout Colombia'.[14] According to Colombia's Ministry of Culture, the illicit trade in cultural objects ranks immediately after 'the illicit trade in arms, drugs and protected species'.[15] Similar events have taken place in Guatemala, Mexico and other countries.

Latin American countries also experience the pillaging of their colonial—often Christian—heritage. There are numerous examples of churches in all countries of the continent being robbed of their paintings and statues. To return to Peru, in the business daily *La Industria*, journalist Marianna Mould de Pease claimed that a former French ambassador in Peru, Camille Rohou, smuggled, via the diplomatic pouch, two paintings by the 16th century Italian master Bernardo Bitti to France. She alleged that in 1996 they had been stolen from the church of San Juan de Létran in the province of

[12] Alberto Massa of the Ministery of Foreign Affairs of Peru. Massa 1996: 129.
[13] Kirkpatrick 1992: 168 and 170.
[14] Gill 2004.
[15] www.mincultura.gov.co/patrimonio.

Chuquito.[16] On September 25, 2000, the police in Bolivia seized 100 pieces of colonial-era art from a single home. Three of the pieces, by anonymous painters, were identified as religious paintings and were reported as having been stolen from rural Bolivian churches. They fall into a category of art that is protected because of its historical interest.[17]

Eastern Europe

This *tour du monde* cannot be finished without stopping in Central and Eastern Europe, where, especially since the fall of the Berlin Wall, the collapse of the Soviet Union and the opening of borders, the situation has become dramatic. Icons, other ritual objects, and religious books and manuscripts have all disappeared and keep disappearing in great quantities from churches and monasteries, often 'to beautify bedrooms and parlours'.[18]

Those who have visited the large and small Orthodox churches of Russia, and who have an eye for their impressive possessions and for the role that these play in the spiritual life of the people, will be shocked when they see the empty spaces and cheaper replacements and copies. Objects of devotion for millions have become trade goods. Cultural institutions in St. Petersburg are a favourite target of thieves. In 1994, St. Petersburg Library was robbed of several medieval European manuscripts and ancient Chinese, Mongolian, Tibetan and Hebrew scripts, with an estimated value of $300 million. The theft was believed to have been ordered by a foreign collector. In the same year an ancient Egyptian glass bowl was stolen from the Hermitage.[19] Apart from these losses, many of Russia's 20th century paintings have also been smuggled to the West.[20]

After the collapse of the Soviet Union, more and more locals began to dig at sites around the ancient cities of the Black Sea in

[16] Marianna Mould de Pease in: La Industria, October 2002. The article was mentioned at www.michelvanrijn.nl.

[17] Fernando del Carpio, Reuters, 3 November, 2000.

[18] ICOM 2000: 8.

[19] The Times of London, April 8, 1999, International Herald Tribune, December 1, 2001.

[20] See e.g. Rottenberg 1999. Communication with the author, June 27, 2005.

Ukraine. They sold the antiquities to dealers from Kiev, Moscow and St. Petersburg.[21]

The Czech Republic complained that it had lost in one year (1993) ten percent of its cultural treasures: 2,000 objects had disappeared from churches, chapels, monasteries and cemeteries. Bulgaria reported a loss of 5,000 icons in one year (1992). The former Yugoslavia also suffered losses of cultural heritage in the 1990s on all sides.[22]

Factors Underlying the Theft and Smuggling

From the above enumeration, it is obvious that the looting, theft and smuggling that is taking place in Afghanistan and neighbouring countries is not exceptional. Before discussing the underlying causes of this phenomenon, it has to be stressed that probably all countries suffer from this. Even in stable and rich countries, which have enough resources to protect their heritage, examples are plentiful.[23] Yet one rule throughout history has been that poor and vulnerable countries with a rich cultural heritage suffer the most. The main contributory factor to the disappearance of a country's cultural heritage has to do with wealth inequality, in other words, with poverty. At the same time, it is rarely poverty alone that is decisive.

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[21] Varoli 2001.

[22] The Croatian city of Dubrovnik was damaged in 1991, following Croatia's secession from Yugoslavia. The destruction of the Ottoman bridge at Mostar by Croatian shelling was a great loss for Bosnia Herzegovina.

[23] A good source for information on art criminality is www.museum-security.org In August 2004, thieves entered the Munch Museum in Oslo and took two of Edvard Munch's best known paintings, The Scream and Madonna. Ten years earlier another version of The Scream had been stolen from the same museum. In August 2003 two men bought a ticket to enter a Scottish castle. They disappeared with Leonardo da Vinci's Madonna. In 1990 two men in police uniforms entered the Isabella Stewart Gardner Museum in Boston, USA, and took works by Vermeer, Rembrandt, Govert Flinck, Manet and Degas, with a total estimated value of $600 million. In Paraguay a gang of art thieves dug a 30-meter long tunnel to rob the National Fine Arts Museum in Asuncion of hundreds of millions of euros. In September 2005, three 16th century maps were stolen from the British Library in London; insiders fear that it is part of a global operation. Since 1998 some 7,000 books have disappeared from the British Library.

See about the theft of rare maps: Harvey 2001.

See about the Munch thefts: Dolnick 2005.

Poverty and Other Factors

In China, poverty made farmers sell their treasures. According to He Shuzhong, for a long time most Chinese people had respected their heritage. For them, an archaeological site was 'part of the national cultural heritage or the soul of the ancestor'. After the Cultural Revolution, however, many Chinese began to think 'that loyalty to authority and reverence of the past were foolish concepts'.[24] Then the country was opened up to Western visitors. When Chinese people discovered that Western travellers and investors were interested in the antiquities which they had preserved in their old houses, courtyards, museums and archaeological sites, they began to make money out of them. The number of illicit excavations increased rapidly. So, in the case of China, it is the mix of poverty, changing social values, and the opening up of the country to relatively well-to-do outsiders. In the case of Tibet, the inability of the Tibetans to resist the conscious efforts of the Chinese leaders to subjugate the Tibetan people and to deprive them of their identity has been crucial. Here poverty combines with ideology and religion.

In Cambodia, factors other than poverty also played a role. One is the remoteness of its cultural monuments. Many temples are situated 'in the middle of the vast forests and jungles with no roads and means of access'. They are difficult to protect. Moreover, Cambodia shares a border with Thailand, which is 'a route for contraband and trafficking of drugs, arts and gem stones', and where Bangkok 'still remains among the first-ranked cities for organized crime and the underground art trade'.[25] Another major factor in Cambodia is the history of three decades of conflict, which followed on from the Khmer Rouge terror and the subsequent foreign interventions. The continuing involvement today of high-ranking Cambodian military personnel and politicians in the trade is also crucial. 'Most of the objects of art are provided and supplied by the military, who are the main participants in the trafficking of art in Cambodia.'[26] High-ranking military officers organize the looting in the area for which they are responsible. So, in this country, there is a mix of

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[24] Shuzhong 2001.
[25] Lafont 2004: 22.
[26] *Op. cit.*, 34.

poverty, instability, and the presence of active dealers in an adjacent country.

In Mali, poverty was a major factor underlying the increase in illicit trade. Panella mentions that the illicit export really began in the 1970s, when a major drought forced farmers to look for alternative sources of income. But again, poverty is not the only factor. Sometimes, the looters at the beginning of the chain have almost no relationship with the objects they take. Among the farmers in the Niger delta of Mali, 'the idea of patrimony, developed around cultural material and archaeological sites in particular, does not correspond to cultural reality as experienced by the people concerned', writes Kléna Sanogo of *the Institut des Sciences Humaines* in Bamako. 'This explains much of the destruction that might be termed unintentional', to be distinguished from intentional destruction.[27]

In Ethiopia, this discrepancy between the traditional heritage and the perceptions of the villagers is considerably less. Neither was Ethiopia troubled by too many foreign interventions. The factors which have played a role there are poverty, the absence of control, intrastate conflicts and the arrival of aid workers. Numerous local priests and deacons have been willing to sell precious crosses, other ritual objects and holy books from churches and monasteries. Their poverty worsened as a result of civil strife and poor administration. During the droughts and famines, which have occurred since the 1960s, many foreign aid workers entered the country. An official of an international organization in Addis Ababa with seven years' work experience in Ethiopia was quite explicit: 'Dealers from European countries and the USA come here to purchase the best pieces. The customs do not check what they take out of the country. They are not efficient, and it is not difficult to buy their cooperation. People with high positions in the international aid take a lot too. But. . . .', he adds, 'diplomats are the biggest problem.'[28]

The same official stressed, however, that the Derg, which ruled the country from 1974 until 1991, 'confiscated many treasures and sold them to the highest bidder'. Here, as in Cambodia, the military played a role. It helped the Library of the University of Leiden in the Netherlands to obtain several shipments of old manuscripts.

[27] Sanogo 1999.
[28] Communication with the official on December 9, 2001 in Addis Ababa.

The chief librarian told me that he had purchased 'whole boxes, filled with old books and scrolls. Because of the favourable prices and knowing that another box would follow, I accepted every parcel.'[29]

In this context it is good to realize the utter inequality of profit margins. During my own visits to the Niger delta, several experts told me that these diggers receive extremely low wages, sometimes no more than 'a tin of cola and a handful of rice'.[30] Over the years some research has been conducted into the profit margins of the illicit trade. According to Lafont, a guard in the Angkor temple complex receives between 20 and 30 dollars if he allows a robber in. A twelfth century statue from Angkor can easily fetch $100,000 when sold by a dealer or auction house in the West.[31] In *Stealing History*, an analysis of the illicit trade by the McDonald Institute for Archaeological Research of Cambridge University, UK, similar margins are mentioned. A looter in Central America receives about $200–$500 for an ancient pre-Columbian vessel, 'which might ultimately be sold for $100,000'. Usually the original finder gets less than two percent of the amount that is paid by the final buyer.[32]

In Latin American countries, poverty is again a major factor. In a country such as Guatemala, poor farmers and the unemployed can easily be seduced into illicit digging. Jade and painted pottery sell well on the North American market. In countries such as Colombia, Peru and Bolivia the sheer impossibility of policing the extensive borders with Brazil and Argentina is a major obstacle to stemming this illicit trade. Many treasures also leave the country because of a mix of poor governance and the assumption of many foreigners that they are free to take what they want. Sidney D. Kirkpatrick describes vividly how a retired US diplomat was 'the principal player in the mass exodus of looted Moche artefacts out of Peru'. He used tourists, aircraft personnel and even nuns to smuggle them out of the country.[33]

The same mix of factors has played a role in the former Eastern Bloc countries. Here the large-scale disappearance of cultural heritage has been aggravated by the rapid abolition of centralized economies

[29] Communication with Prof. Jan Just Witkam of the Leiden University Library, published at www.museum-security.org, January 15, 2003.
[30] In the years 1991 and 2000.
[31] Lafont 2004: 69.
[32] Brodie, Doole & Watson 2000: 13.
[33] Kirkpatrick 1992: 73 and 75.

and their replacement with more market-led ones, the morbid growth of criminality, the waning of strict police control and fast-rising unemployment. Thieves have strong networks, both in the countries of origin and in the art market countries. Sometimes thefts have been ordered by dealers or collectors. This factor plays a role in all countries. In the case of the former Yugoslavia, a mix of internal war, instability, and religious and ideological strife was decisive.

Wealth

The other side of poverty is wealth. Wealth also causes the theft and smuggling of cultural heritage. This is not the place to deal extensively with wealth differences at a global level, but it must be said that the number of rich people is progressively increasing. Remarkably, this increase is not restricted to the traditionally wealthy regions of the world—North America, Western Europe and Japan. In other regions, too, there is a rapidly growing class of well-to-do people. The number of millionaires in the Asia-Pacific region is growing at a rate which is double that of Europe. In 2004, the number of individuals with a million dollars, euros or pounds, increased worldwide with 600,000.[34] The increased purchasing power is evident from the increase in the number of auction houses in some of these countries. In 1992 the first auction house appeared in China, by 1995 there were 'at least 200'.[35] In Poland the first professional auction house was set up in 1988, a few years later there were six in Warsaw, while a first one was opened in Krakow.[36]

This brings us to another factor, which is that travelling has increased enormously because of globalization and the increase in disposable wealth. People travel for business reasons, as tourists, or to study, and they are migrating and looking for work. In 1950 there were some 25 million international arrivals; in 2004 this figure was around 763 million. That is an average annual increase of 6.5 percent.[37] Although Europe and the Americas remain the largest tourist destinations, growth is strongest in the Asia-Pacific region and in the Middle East.

[34] Lynch & Cap Gemini 2005.
[35] Shuzhong 2001: 19.
[36] Bazylko 1998.
[37] World Tourism Organisation, Facts and Figures www.world-tourism.org.

The advantage of this increased mobility is that it increases attention for sites and treasures. People learn more about foreign countries and other cultures, and destination countries can make an income out of cultural tourism. The disadvantage is the overuse of cultural sites and objects and the threat of theft and damage. 'Tourism is more and more important for the economy of China', said He Shuzhong, but 'more and more heritage sites can not bear the too busy tourism. More and more heritage sites are rebuilt for tourism. More and more illicit excavation takes place under the name of tourist expedition.'[38] The on average two thousand visitors per day at Angkor Wat do not do the old buildings much good either. Many of them try to touch the reliefs on the walls. Many travellers want to take a memento home with them.

Often the authorities of a country consider the protection of their heritage as less important than the need for income out of cultural tourism. An example is China, where the national authorities decided in September 2000 that the number of visitors allowed into some of its most famous sites and museums will be limited. The Palace Museum in Beijing will receive no more than 100,000 visitors per day, while the number of visitors to the Mogao Grottoes will not exceed 5,000 daily.[39] Tan Chay, who heads the cultural heritage police in Angkor Wat, admits that the police and the cultural authorities of the ancient temple city 'are discussing a limitation on the number of visitors. We have already half-closed certain parts of the temples by putting up ropes. There is a problem, indeed, but. . . .' he adds, 'we can not close the gate for a Cambodian pilgrim who has been travelling a whole day to get here!'[40]

Development versus Protection

Although it is not the subject of this contribution, it has to be stressed that a great deal of damage to cultural heritage is caused by factors other than looting, theft and smuggling. Poor management and an underestimation of the importance and costs of maintenance, air pollution, chemicals, climatic effects, natural disasters such as the tsunami

[38] H. Shuzhong at a seminar on the return of cultural property organized by the Institute of Art and Law, London, December 8, 2001.
[39] www.culturalheritagewatch.reports, September 20, 2000.
[40] Communication with Colonel Tan Chay in Angkor Wat, January 24, 2004.

and hurricane Katrina are all major factors too. Quite often, even development plans can be detrimental to the preservation of cultural heritage. Apart from the instance of the administration of Baghdad which wanted to replace a 14th century mosque, a country such as China faces some major dilemmas.

'When modernization meets ancient relics, the balance of favours leans to the former in today's China', writes a Chinese newspaper. In order to distribute the available water more evenly over the country, a massive project is ongoing to divert water from the south to the north of the country, 'which will affect a reservoir of precious Chinese cultural artefacts'. A total of 788 cultural heritage sites will be affected by the project, among them two world heritage sites—the Yuzhen Palace in Wudang Mountain and the Great Wall Remains of the Yan State. According to Chinese experts, the sites affected by the south-north water diversion project are much more valuable than those affected by the construction of a dam in the Three Gorges in the Yangtze River.[41]

The Olympic Games, which will be held in Beijing in 2008, could also endanger the city's heritage. Beijing will be enlarged and embellished, but there are fears that this will occur at the cost of its ancient sites. 'If there is no strong voice', complains He Shuzhong, 'Beijing will be only a new city embellished with less traditional or ancient building in 2008'.[42]

The Internet and the Diplomatic Bag

Before possible solutions are dealt with, two more contributory factors have to be mentioned. One is the diplomatic bag, the other is the Internet. To begin with the latter, police forces, customs and cultural authorities widely recognize that the Internet offers a fourth way—after public auctions, sales from dealers and private transactions—to deal in art, and it offers special possibilities for the illicit trade in art.[43] On the World Wide Web everything can be offered for sale. Shopping is often anonymous and there are search-engines to hand. Go to Google, eBay or Ancient Artefacts on-Line, fill in the type of

[41] Xinhua News Agency, August 13, 2005.
[42] H. Shuzhong during a seminar on the return of cultural property organized by the Institute of Art and Law, London, December 8, 2001.
[43] Chippindale & Gill 2001.

object, for example Nok statues from Nigeria, Roman pottery or Buddhist bronzes, add 'prices', and within a few seconds the names of a number of companies and their merchandise will appear on the computer screen. In many cases objects are offered without proper provenance or with fake provenances.

The problem with the Internet is that it leads to new types of fraud. One example, according to the Financial Times, came to light in 2000 when a Richard Diebenkorn painting attracted a $135,805 bid on eBay. It turned out that the painting was a fake and the price had been inflated by a shill-bidding scheme. In 2003, a fraudster downloaded an image of a Montanari violin from a catalogue of the New York-based Tarisio Auctions and advertised the object for sale on eBay at a fraction of the estimated price. 'Internet auctions are replete with this sort of thing', a Tarisio Auctions' spokesperson said.[44] Silvia Fernández Cacho and Leonardo García Sanjuán report in *Culture Without Context* about the sophisticated and well organized looting of Andalusian archaeological materials. After a long investigation called Operación Trajano, in September 1999 the Spanish police uncovered an Internet-based ring auctioning antiquities looted from Andalusian archaeological sites. These Internet-based auctions had been held since 1997 on a web site based in San José, California, US, and involved clients from Australia, France, Germany, Canada and Portugal. Three people were arrested and charged in Seville and more than 9,000 archaeological objects (including around 5,000 coins) were recovered. 'These new generation looters do not operate just locally, but aim their activities at profitable international markets.'[45] The US Foreign Ministry announced in 2000 that private collectors and dealers had used the Internet to order prehistoric human bones. The bones had been excavated in Italy and brought to a dealer in the Netherlands who had exported them to the USA.[46]

It occurs that official dealers use front men to sell items or to search for new clients for them via the Internet. The Internet is also used by smaller collectors who travel around to collect—often illicitly—archaeological materials to enlarge their own collections, and who

[44] Financial Times, April 28, 2003 (via MSN).
[45] Fernández Cacho & García Sanjuán 2000.
[46] See: http://www.customs.gov/custoday/apr2000/phiale2.htm.

take some extra to sell via the Internet in order to cover their travel expenses.

The abuse of the diplomatic bag is another instrumental factor in the illicit art trade. Such abuse amounts to white-collar crime and has some sort of taboo attached to it, as I have described elsewhere.[47] It is a public secret, officially denied by most authorities, unofficially admitted by some. Lyndel Prott (a former Director of UNESCO's Division of Cultural Heritage in Paris) and Patrick O'Keefe, both now Professors at the Australian National University, argue that the involvement of diplomats in the illicit art trade is 'of considerable concern'.[48] They mention several concrete cases. Professor Enamul Haque, Director of the International Centre for Study of Bengal Art and retired Director of Bangladesh's National Museum, says the same: 'Yes, diplomats are a major concern. They cause a lot of damage and abuse the diplomatic pouch.'[49] He told me the example of an American doctor who abused his privileges as a foreigner to smuggle a large number of ancient objects out of Bangladesh, and sold them in the USA to museums and private collectors. In Cambodia I was informed by the head of the UNESCO office 'that diplomats are a bigger danger than tourists. Very many diplomats have their houses full of ancient Cambodian objects. When they move to their next post, they probably take all of it with them. Tourists are often fobbed off with fakes.'[50] In an interview with Yaro Gella, Nigeria's (former) director-general of museums and monuments, he told me that 'diplomats do so particularly at the end of their term in Nigeria, when they misuse their privileges', thereby pointing to diplomatic baggage.[51] So far, very few governments are taking action against this white-collar crime by informing their diplomats and others who make use of the diplomatic bag about the damage to the cultural heritage of their host countries.

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[47] Van Beurden 2005b.

[48] Prott & O'Keefe 1989: 54–55. Communication with Lyndel Prott, Amsterdam, October 23, 1997. See also Lyndel Prott's contribution in this Volume, chapter 12.

[49] Communication with Enamul Haque, Dhaka, April 13, 2005.

[50] Communication with Etienne Clement, head of the UNESCO Office in Phnom Penh, January 15, 2005.

[51] Communication with Yaro Gella, Amsterdam, October 23, 1997.

Measures against Looting, Theft and Smuggling

During its 2004 annual meeting, UNESCO's World Heritage Committee recommended that Cambodia's most famous monument, Angkor Wat, should be taken off the World Heritage in Danger list. It had been there since 1992, because of the ongoing, large-scale illicit excavation and looting, and landmines. A few months earlier I had spoken extensively to both Angkor police chief Tan Chay and Ross Borath, who is in charge of the governmental body responsible for the protection and running of Angkor (*Autorité pour la Protection et l'Aménagement de la Région d'Angkor*). They explained why the ancient site is no longer in danger.

Ross Borath explained about the cooperation agreements, which Cambodia has concluded with donor countries to make money and expertise available for the restoration of the temples.[52] And, indeed, there are numerous signs on display in the Angkor temple complex with information about cooperation with Japan, India, Indonesia, France, Switzerland, Germany and other countries. Foreign and Cambodian restorers are busy working at several locations. 'Their presence as such has a preventive effect.' It was not the only factor, though, as Tan Chay explained. In 1999, he was ordered to find ways to reduce the looting of Angkor. At that time the police and the army had already removed 30,000 landmines and 80,000 pieces of unexploded ammunition. The new head of police opted for some rather unorthodox measures. 'An order was issued that at 5 p.m. all visitors had to leave the complex. After their departure we put some old landmines around the most endangered sites.' In addition, some 700 police officers received special training and now constitute a cultural police force. Some of them used to cooperate with temple thieves. 'We are paying them a little extra as an incentive not to steal anymore.' Then, together with the cultural authorities, the police visited all fifteen villages inside the temple complex and discussed the necessity of better protection. 'We requested them not to work anymore for middlemen who paid them poorly and made themselves a lot of money out of Angkor treasures. We also instructed a number of poor village men and women to become temple guardians. They receive a modest salary.' Did it help? Tan Chay: 'At first,

[52] Communication with Ross Borath in Angkor, January 23, 2004.

some policemen were arrested, because they continued their old habits. When seven looters had been killed after touching a land-mine, the looting diminished visibly.'[53]

The example of Angkor Wat makes it clear that measures can be taken and programmes can be set up to slow down the looting and smuggling of cultural heritage. What is clear is that it has usually been a mix of measures and programmes that has led to a positive result. In general, five types of action can be distinguished:

1. Legal measures
2. Self-regulation
3. Education and training of the police, the customs authorities and people around the sites
4. Public education on the demand side
5. Restitution of objects

Ad 1. Legal Measures[54]

There are several international Conventions which help to protect the cultural heritage of a country. Apart from the 1972 World Heritage Convention, which covers both cultural and natural treasures, there are the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (the so-called Hague Convention), the 1970 Unesco Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 1995 Unidroit Convention on Stolen or Illegally Exported Cultural Objects. In 2001 the Convention on the Protection of Underwater Cultural Heritage was signed; so far, five States have ratified it.[55]

The 1970 Unesco Convention requires the restitution of cultural property which is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science. Because of some weaknesses in the 1970 Unesco Convention, the second Convention, the Unidroit Convention, was added in 1995.

[53] Communication with Colonel Tan Chay in Angkor Wat, January 24, 2004.
[54] See also Francioni & Lenzerini, Maniscalco, Omland, Prott and Siehr on the subject in this Volume, chapters 15, 18, 14, 12, 17.
[55] As of June 29, 2005.

One of the new articles of Unidroit was the reversal of the burden of proof. A purchaser must prove that he exercised 'due diligence' when the object was acquired. If the purchaser did so, then he or she is entitled to a fair compensation to be paid by the claimant. A few years back, I discovered the relevance of the Unidroit Convention, when a Belgian collector, who had purchased one of the most precious crosses of the Ethiopian Orthodox Church from a dealer in Addis Ababa, was repaid the purchase price when he returned the cross to the Ethiopian authorities, whereas the dealers involved in the theft and sale of the cross were imprisoned. If both Belgium and Ethiopia had implemented the Unidroit Convention, the Belgian collector would have had to prove his innocence and that he, as a regular visitor to Ethiopia, did not know that the cross had been stolen (despite media news all over Ethiopia) and that a treasure such as this should never have left Ethiopian territory. He would never have succeeded in doing so.

Since the end of the bipolar world, the 1954 Hague Convention and its two Protocols have become important tools for the protection of heritage in times of conflict.[56] According to the Second Protocol states have to take measures to safeguard their monuments and collections. These are not to be attacked by an enemy, nor is the country itself allowed to involve them in their war effort, e.g. by putting defence weapons in their vicinity. Yet, as Lyndel Prott shows in this Volume, in the well known case[57] of four 16th century icons stolen from a Greek Orthodox Church in Cyprus, the Convention and its Protocols have to be implemented in national law before they can be enforced.

Every now and then a news item emerges about the theft of artefacts from shipwrecks. In 1996, Thai police arrested three Swedes, two Germans and a Thai woman who were believed to have carried out illicit excavations in local waters.[58] For eighteen months they had been taking five hundred-year old china, dating from the Ming dynasty, from a sunken vessel. They had been using rather modern equipment, as is usual in the case of—according to UNESCO—the large number of underwater looters because 'growing technical progress

[56] See especially Maniscalco in this Volume, chapter 18.
[57] See also Prott in this Volume, chapter 12.
[58] Bangkok Post, October 26, 1996.

has led to an unprecedented accessibility of the seabed and the cultural heritage located thereon, followed by its looting and destruction'.[59]

If a country ratifies one of these Conventions, there is usually still a need to adjust national laws so that the Convention can take effect. Apart from these implementing laws, most countries also have their own national laws and regulations, which define and protect their national cultural heritage. These laws differ in scope and their effectiveness. In poor and unstable countries they are often weak. Sometimes they come with fairly general limitations, and state that all cultural objects older than, for example, fifty or one hundred years are part of the country's cultural heritage. The disadvantage of such a limitation is that the concept of cultural heritage can become so extremely wide that it is almost impossible to guard it. In other cases, national laws show serious lacunas. Masha Lafont asserts that this is the case in Cambodia, which has had its national law regarding cultural heritage since 1994. It is 'ineffective', writes Lafont, because there are no sub-decrees outlining the procedures for importing and exporting objects of art from the country.[60]

A successful example, however, is Mali, where legislation has been improved from 1985 onwards. Together with measures in the non-legal sectors, legislation has had a positive effect on the slow down in illicit trade in the country. A well-to-do antiquities dealer in the ancient city of Djenné, Mobo Maïga, admitted that he once made lots of money from illicit trading, 'but since the new laws I have changed my trade and specialize in making copies'.[61]

It is remarkable that European art market countries, such as Great Britain, France, Sweden and Switzerland, have only acceded to the 1970 Unesco Convention, and Belgium and the Netherlands are in the process, despite the existence of the 1995 Unidroit Convention. The latter is considered to be legally more complicated and, because of the reversal of the burden of proof, more effective as an instrument for heritage protection. Apparently the Unesco Convention is for these countries the lesser of two evils. Some of these art market

[59] See: www.portal.Unesco.org/culture, The Protection of Underwater Cultural Heritage.
[60] Lafont 2004: 28.
[61] Communication with Mobo Maïga in Djenné, February 2000.

countries have taken extra legal measures to overcome the objections of those who are in favour of the Unidroit Convention. For example, in Great Britain a law was accepted in 2003, the Dealing in Cultural Objects (Offences) Act, which introduced the concept of a 'tainted object'. The new law was the result of a recommendation by the Culture, Media and Sport Committee of the House of Commons from July 2000: 'We propose that . . . it be a criminal offence dishonestly to import, deal in, or be in possession of any cultural object, knowing or believing that the object was stolen, illegally excavated, or removed from any monument or wreck contrary to local law'.[62] The question remains to what extent such a law will be effective. By September 2005, not a single court case had been brought based upon the new law.

Ad 2. Self-regulation

Over the years professional organizations of art dealers, auction houses, museum workers, archaeologists, and others have developed, or are in the process of developing, their own codes of ethics. This is a positive indication of increasing awareness among these groups regarding the right of a nation to decide itself about its own cultural heritage. In these codes most of these professional groups officially declare that they must not deal in 'tainted objects'.

Unfortunately, actual reality is sometimes more complex than the situation envisaged by these codes, as will be shown in the case study below. In this case of the purchase of an ancient Cambodian temple bell, both a dealer and a museum are involved. They each subscribe to the Code of Ethics of their own professional group. The Ethics Commission of the Netherlands Museum Association, to which the museum is a member, is also involved.

Case Study: Tainted Temple Bell?

In 2004 the Carillon Museum in the village of Asten in the Dutch province of North Brabant bought a second century B.C. bronze temple bell from the antique dealer Marcel Nies in Antwerp, Belgium. According to Nies, the 12-inch high bell came from Battambang in

[62] Department for Culture, Media and Sport, Cultural Property Unit, Dealing in Tainted Cultural Object—Guidance on the Dealing in Cultural Objects (Offences) Act 2003, London, January 2004.

Cambodia and it had been exported to Thailand in 1969. In 2000, it arrived in Italy. Since 2003, it had been in Belgium. According to the museum, such bells can easily be purchased in Thailand, and export permission was not required. These bells are sold and sent all over the world, and can indeed be found on the Internet. In order to pay for the bell, the museum applied for and received subsidies from, among others, the Brabant Museum Foundation.

As the Brabant Museum Foundation, in spite of the guarantees by the dealer and the museum, was not certain about the proper provenance of the bell, it asked the Ethics Commission of the Netherlands Museum Association for advice. The Commission finally reached a positive conclusion—'in this case illicit trade is out of the question'—and the Carillon Museum went ahead with the purchase. The curator, who was responsible for the deal, justified his purchase with the argument that the bell is 'not part of the cultural heritage of Cambodia'.[63] He produced his own definition of cultural heritage: 'Rembrandt's Night Watch, the Borobudur and Angkor Wat, yes those are cultural heritage, but not this bell.'

Yet the advice of the Ethics Commission leaves the reader with an unsatisfactory aftertaste. To start with, the year in which the object left Cambodia, 1969, immediately raises questions. It is, according to the Commission, 'just before the date of the 1970 Unesco Convention, which arranges the protection of stolen or unlawfully exported cultural heritage'. The year 1970 is often used as a standard year: no difficult questions are asked about objects acquired before 1970, but for all acquisitions after that date there should be no doubts about the provenance. 'Although the Commission is aware that doubts could be raised about the accidental sequence of the successive dates of 1969 and 1970, it has not been able to find a reason to doubt the information, which has been offered by the dealer.' Yet talking with antique dealer Marcel Nies, he only says that the year 1969 is 'most probable'. He is not completely sure, 'but I am not worried about it'.[64]

A second question concerns the assertions that no exemption was needed for the export of the bell from Cambodia to Thailand. Upon inquiry, deputy director Hab Touch of the National Museum of

[63] Communication with the retired curator, Dr André Lehr, of the Carillon Museum in Asten, May 16, 2005.

[64] Communication with antiquities dealer Marcel Nies, March 25, 2005.

Cambodia, which is responsible for the issue of export permits, and Etienne Clement, head of the UNESCO mission in the Cambodian capital Phnom Penh, both suggested that exemptions for these antique objects do not exist. Since the year 1925, a law prescribes that art objects are only to leave the country with a permit. So the export to Thailand was already illicit.

It is remarkable that the dealer, the museum curator, and the Ethics Commission never asked the opinion of the government of the country of origin, Cambodia. This issue is important since Cambodia now has an active policy to curb the illicit trade in art and antiquities and to protect its own cultural heritage. Yet all three European parties were satisfied with superficial answers to pressing questions.

ICOM's Red Lists

Apart from the professional codes of ethics, the International Council of Museums (ICOM) has come up with the so-called Red Lists, which are meant to draw the attention of customs officials, police officers, art dealers and collectors to endangered categories of cultural objects. These lists have no legal force; they are for ethical guidance only. So far Red Lists have appeared for eight categories of African archaeological objects, for pre-Columbian and colonial art from Latin America, and for Iraqi Antiquities at Risk. Some more are in preparation. These lists are often appreciated. Some dealers state that they are willing to respect them, as they create clarity about what should not be dealt in. For the broader public they have an educational value.[65]

Ad 3. Training of Police Officers, Customs Officials and People around the Sites

The above-mentioned example of awareness-raising among, and the training of, police officers and farmers in the Angkor area can easily be repeated. In several countries, there are similar multi-sectoral efforts. At sites in Mali, which are on the UNESCO World Heritage List (Timbuktu, Dogon/Bandiagara, Djenné), the government has set up cultural missions to stop illegal excavations and looting and

[65] See: www.icom.org/redlist.

to educate the public about the importance of the cultural heritage. In Djenné a mobile police brigade patrols the more than 800 archaeological sites in its vicinity. No site within a radius of thirty kilometers has recently been looted. The police and members of the cultural mission make regular visits to local hotels and question visitors (if there is any suspicion). In the years 1999 and 2000 actors and actresses of the national theatre performed a play in 25 villages in the Inner Niger Delta about the value of cultural heritage. They have changed people's awareness. Some villages have set up guard systems for the surrounding archaeological sites.

In Colombia, the Ministry of Culture started the *Campaña Nacional contra el Tráfico Ilícito de Bienes Culturales* in 2005, a special program to slow down illegal excavation, looting and smuggling. 'Conservation and education go hand in hand' is the main principle behind it.[66] Earlier, the Ministry had started to show video-clips in cinemas to teach youngsters to engage in the protection of the country's heritage. Youth brigades have been organized to protect certain sites. Other Andean countries have similar programmes. In Ethiopia, a serious effort is being made to set up an inventory of treasures in churches and monasteries in the northern part of the country. Buildings, icons, holy books and ritual objects have been photographed and described at 350 locations.[67] Many more examples could be given.

Object ID Checklist

When, in the 1990s, the illicit art trade continually increased, and with it the determination to oppose it, the question arose as to what minimum information is needed to describe an object, so that in the case of theft or disappearance, the police, dealers and collectors can identify the object in question. In other words, the need arose for an international documentation standard. In May 1997, a new and special tool was presented for the management and protection of museum collections. The Getty Art History Information Programme had worked for four years on the project, with the support of the Conference for Security and Cooperation in Europe, the Council of Europe, ICOM, UNESCO, INTERPOL and the U.S. Information Agency.[68] The result was a checklist, which is compatible with the

[66] See: http://www.mincultura.gov.co/opinionCultural.
[67] Van Beurden 2003: 70–72.
[68] Thornes 1995: 17.

majority of art theft databases, including those of INTERPOL, the Italian Carabinieri, Trace and the International Art Loss Register, and which is particularly useful for museums with small collections.

Object ID Checklist:
1. Take photographs
2. Answer the following questions:
   - Type of Object
   - Materials & Techniques
   - Measurements
   - Inscriptions and Markings
   - Distinguishing Features
   - Title
   - Subject
   - Date or Period
   - Maker
3. Write a short description
4. Keep the information in a secure place

Object ID has now been adopted by a large number of museums, including some in poor and unstable countries. Soon after it was distributed, two museums in the Netherlands began to work on a digital version of Object ID.[69]

Ad 4. Public Education on the Demand Side

Many potential buyers of cultural objects are unaware of the possibility of looting, theft and smuggling which surrounds the precious object in which they are interested. Many buyers are not inclined to ask questions about the provenance of an object. If it transpires that a purchased object is tainted, they can always say: We did not know! In between those people who intentionally acquire stolen or smuggled art and those who explicitly try to avoid doing so, there is a large group of people who are not really aware of how their own purchases can be connected with illicit trade.

There is an obvious need for public education about a fair art trade, particularly aimed at this group. Many people, if they understand

[69] The National Museum of Ethnography in Leiden and KIT Tropenmuseum in Amsterdam have played a pivotal role in this. See: van Beurden 2005a: 41–43.

the 'ins and outs' of the illicit trade, are willing to respect the laws and wishes of other countries as regards their cultural heritage. Most art market countries, which have recently acceded to the 1970 Unesco Convention, are performing rather poorly in this respect, although the Convention asks them to implement educational programmes.

In some cases, civil society is filling the gap, the Society for the Preservation of Afghanistan's Cultural Heritage (SPACH) being an obvious example.[70] A civil society group in Switzerland, the Berne Declaration, has prepared brochures on the issue in French and German and these are spread among tourists, development workers, diplomats, and members of the Swiss peace-keeping forces. Two travel agencies have joined their campaign.[71] The African-Swedish museum network Samp conducted a similar campaign.[72] The Illicit Antiquities Research Centre of Cambridge University, UK, has been publishing materials on the looting of art, antiquities and archaeological materials for many years.[73]

Ad 5. Restitution of Objects

Most measures, which have been mentioned so far, are meant to slow down the ongoing looting, theft and smuggling. Restitution, on the other hand, although it has to do with the same problem, deals more often with past offences. Yet it is dealt with here because the restitution of cultural objects is becoming increasingly topical. There are two factors that lie behind this increased attention. One is that countries which have lost a great deal of their cultural heritage and are now independent and maturing, often stress the importance of their cultural heritage, both for national identity and pride, and as a potential source of income. The other factor is that in some of these countries an upper class is developing with sufficient purchasing power to compete on the open market and with an interest in its country's own cultural heritage.

Both factors lie behind the increasing activities of Chinese collectors. In late April or early May 2000, the auction house Christie's

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[70] See especially Rodriguez and Cassan, chapter 1 and Van Krieken, chapter 13 in this Volume.

[71] The title of the campaign is *Stoppt den Ausverkauf der Kulturen/Non au pillage des cultures!*

[72] The title of this campaign is *Heritage for Sale*.

[73] See: http://www.mcdonald.cam.ac.uk/IARC.

Hong Kong sold, for several million US$, bronze monkeys', bulls' and oxen heads. They were said to have been looted from the Summer Palace by British and French troops after the 1860 Opium War. A few days later Sotheby's Hong Kong sold an 18th century Qing dynasty porcelain vase for more than $2.5 million, and a bronze tiger sculpture from a water clock for $1.8 million. During both auctions, a handful of protestors demanded the return of these national relics to the motherland, as the BBC reported. All items were purchased by bidders acting for China's Heritage department. In 2003, Doyle's Auction House sold a rare collection of Chinese porcelain; the sale was dominated by a wealthy Chinese businessman. These collectors are bringing history home.[74]

Private purchasers play an important role in a large-scale programme to reclaim Chinese cultural relics scattered around the world. The programme, announced in April 2005 by the China Cultural Relics Recovery Programme, starts from the idea that about 1.6 million worthwhile cultural relics are held by more than 200 foreign museums in 47 countries. 'It is time to reclaim our cultural relics from abroad', said Programme Director-General Wang Weiming to the China Daily.[75] The Programme will focus on items which were taken abroad between 1840 and 1949. 'Buyback is the main way. Private purchases make up over 80 per cent.'

Wealthy Indonesians show so much interest in the paintings and other heritage of their country, which is now abroad, that a Dutch auction House, Glerum, moved some of its auctions from Amsterdam to Singapore and Jakarta. Indonesian collectors send their representatives to the Netherlands if an auction is held there.[76]

In Ethiopia, there is no private sector, and neither does the government have much money for buyback activities. Yet the country has succeeded in retrieving the obelisk removed by the Italian army in 1937 as war booty from the city of Axum. Ethiopia is actively trying to regain more objects that it considers to be war booty. They include objects which were taken by British soldiers in 1868 from the palace of the Emperor of Ethiopia and the nearby Madhane Alam church in Maqdala in the northern part of the country. Among

[74] BBC World Service, May 2, 2000. See also: Le Monde, 4 février 2002, and International Herald Tribune, June 4 and June 11, 2004.

[75] China Daily, June 14, 2005.

[76] Glerum Auctioneers, Auction scheme 2003: 10.

them were over 400 Ethiopic manuscripts, two crowns, numerous hand crosses, an icon of Christ with the Crown of Thorns and two richly adorned royal marquee-type tents. Over the years one or two items have been returned to Ethiopia. A special institute is trying to regain more items. This is not a buyback operation, but a case of restitution without money being involved.[77]

Final Remarks

Globalization and free trade undoubtedly have positive aspects, but, as has been pointed out, for cultural heritage it has very negative effects too. Friction exists between the protection of cultural heritage and the principles of free trade. That is why the European Union took some corrective measures soon after the 1992 Maastricht Treaty. It issued Directive 93/7 which provides for a procedure for the return of cultural treasures which have left a European Member State unlawfully and are found in another Member State.

The guiding principle for all who are involved in dealings with art, antiquities and archaeological materials and other cultural heritage is the sovereignty of each country and nation with regard to its own cultural heritage. Only in exceptional cases, possibly comparable to cases in which an arms embargo is announced, can this sovereignty be limited.

References

Bazylko, P. 1998 'Auctions boom in Poland as new rich swoop on art', in *Reuters*, June 6.

Beurden, van J. 2003 'Preserving Ethiopia's cultural heritage', in *The Courier, the magazine of the ACP-EU Development Cooperation*, 197, March–April.

—— 2005a *Partnerships in Cultural Heritage. The International Projects of the KIT Tropenmuseum in Amsterdam*, Amsterdam.

—— 2005b *The Role of the Diplomatic Bag. Some facts we have*, September 2005 (Unpublished).

Brodie, N., J. Doole, & P. Watson 2000 *The Illicit Trade in Cultural Material*, Cambridge.

Chippindale, C. & D. W. J. Gill 2001 'On-line auctions. A new venue for the antiquities market', in *Culture Without Context*, 9, Autumn.

[77] See: http://www.afromet.org, the Association for the Return of the Maqdala Ethiopian Treasures.

Claude, J. 1999 *Angkor*, Cologne.
Department for Culture, Media and Sport, Cultural Property Unit, Dealing in Tainted Cultural Object. Guidance on the Dealing in Cultural Objects (Offences) Act 2003, London, January 2004.
Dolnick, E. 2005 *The Rescue Artist. A true story of art, thieves, and the hunt for a missing masterpiece*, London.
Fernández Cacho, S. & L. García Sanjuán 2000 'Site looting and the illicit trade of archaeological objects in Andalusia, Spain', in *Culture Without Context*, 7, Autumn.
Ghaidan U. & N. Al-Dabbagh 2004/2005 'Iraq: State of Ecology and Built Heritage after Four Decades of Adversity', in *Heritage at Risk*, ICOMOS.
Gill, D. 2004 'Colombia, Illicit antiquities and the ICOM Red List Latin America', in *Culture without Context*, Cambridge University, spring.
Harvey, M. 2001 *The Island of the Lost Maps. A true story of cartographic crime*. New York.
Hopkirk, P. 1985 *Foreign devils on the Silk Road*, London.
Hunt, T. 2005 'How Britain helps China destroy Tibet', in *The Observer*. September 11.
ICOM 2000 *One Hundred Missing Objects: Looting in Europe*, ICOM, Paris.
Kirkpatrick, S. D. 1992 *Lords of Sipan. A true story of Pre-Inca tombs, archaeology and crime*, Morrow and Company.
Lafont, M. 2004 *Pillaging Cambodia. The Illicit Trade in Khmer Art*, Jefferson, North Carolina, & London.
Lynch, M. & Cap Gemini 2005 *World Wealth Report 2005*. New York.
Massa, A. 1996 'Foreign and Domestic Laws Protecting Peruvian Cultural Property', in *Illicit traffic of cultural property in Latin America*, ICOM, Paris.
Panella, C. 2002 *Les Terres Cuites de la Discorde. Deterrement et Ecoulement des Terres Cuites Anthropomorphes de Mali. Les Reseaux Locaux*, Leiden.
Prott, L. & P. O'Keefe 1989 *Law and the Cultural Heritage*, 3, Movement, Dublin.
Rottenberg, H. 1999 *Meesters, marodeurs*. De lotgevallen van de collectie Chardzjiëv, Amsterdam.
Sanogo, K. 1999 'The Looting of Cultural Material in Mali', in *Culture Without Context*, Cambridge University, 4, Spring.
Shuzhong, H. 2001 'Illicit Excavation in Contemporary China', in *Trade in Illicit Antiquities. The Destruction of the World's Archaeological Sites*, N. Brodie, J. Doole, & C. Renfrew (eds.), Cambridge.
Thornes, R. 1995 *Protecting Cultural Objects through International Documentation Standards*, The Getty Art History Information Program, Santa Monica.
Varoli, J. 2001 'Rape of the Greek Crimea', in *The Art Newspaper*, October.

CHAPTER SEVENTEEN

'SAFE HAVENS' FOR ENDANGERED CULTURAL OBJECTS

Kurt Siehr

Problems

Most cultural objects have to be stored properly in order to prevent any danger originating from human behaviour or natural forces like water or fire. Therefore these objects are evacuated in times of armed conflict or inherent natural disasters. There are mainly four different situations in which deposits or 'safe havens' are needed for endangered cultural objects.

Cultural Objects in Times of Armed Conflict

In former times many valuable art objects were buried by their owners in order to protect them against confiscation, looting and destruction in times of war. Very often these 'deposits' were so safe that the owner could no longer locate them and we were lucky to find them many centuries later. Today, the cultural objects of public or private collections are evacuated in times of armed conflict and are stored in remote places,[1] in salt mines[2] or in neutral countries.[3] In many cases the owner himself takes care to preserve his treasures. But there may also be situations in which the authorities of the occupying power engage themselves in safeguarding the cultural property of the occupied country. Such cultural property shall be returned, at the end of hostilities, to the competent authorities of the territory

[1] This was done with many French cultural objects during World War II. Cp. Bazin 1991: 11 ff.; Valland 1997: 48 ff.

[2] Many German art collections were hidden in salt mines in Austria. See Howe 1946: 130 ff.

[3] The art collection of the Prince of Liechtenstein located in Wien was transferred in 1944 to the Principality of Liechtenstein. Cp. Smola 1999: 45 ff.

from which it came.[4] There is no provision, however, on the problem of where and under which conditions the objects have to be safeguarded. It seems to be generally assumed that the cultural objects are deposited in safe places and under conditions necessary for the preservation of the respective objects.

Cultural Objects in Times of Natural Disasters

Since ancient times, cultural objects have been destroyed by earthquakes, hurricanes and by flooding. If evacuation is still possible, there is a need for safe deposits and quick protection. This may be done in the region which was struck by the natural disaster or in neighbouring communities and regions, and foreign countries may even be willing to provide temporary shelter. Also in these situations the host institution would like to know under which conditions it has to preserve the endangered objects.

Cultural Objects Unprotected in the Country of Origin

The protection of cultural property is expensive and in most cases the expenses incurred in protection cannot be covered by the revenue collected from tourists or other visitors. If safety cannot be guaranteed at home, the country of origin may decide to give its treasures on loan to foreign museums until local museums can provide sufficient security. But what about those items which have been stolen or illegally exported and which are due to be returned to a country in which, at present, the items cannot be properly safeguarded? The new Swiss Federal Act of 2003 on the International Transfer of Cultural Property[5] provides in article 9 (2): 'The court may postpone the return until the cultural object is no longer endangered by the return.' The Act itself and the Regulations of 2005 on the International Transfer of Cultural Property[6] do not specify where and under which conditions the objects will be stored in Switzerland.

[4] Paragraph 5 of the First Protocol to the Hague Convention of 14 May 1954 for the Protection of Cultural Property in the Event of Armed Conflict, 249 U.N.T.S. 216, 240.

[5] Swiss Official Systematic Collection of Federal Acts: Systematische Sammlung des Bundesrechts (SR) No. 444.1.

[6] SR 444.11.

Illegally Excavated Archaeological Objects

Illegally excavated archaeological objects are almost taboo for archaeologists. Their code of ethics prohibits the publishing and exhibition of such objects in order to prevent them from being accepted by the public, from being purified of their illegal origin and from entering the legal art trade.[7] Such an abstention is designed to contribute to the deterrence of illegal excavations. But what is the result of such an abstention? Where will these objects be stored and preserved? Will they become lost and banned completely? Also these objects should be preserved and should not circulate in the art market. If the country of origin of illegally excavated objects can be determined and if this country is, *ex lege*, the owner of all the excavated antiquities, the objects will be returned. But what should be done if the country of origin cannot be determined and if there is no private owner as in the SEVSO case?[8] Also here a 'safe haven' may be needed.

Solutions

Shelters and Deposits Needed

There may be an obligation under existing Conventions or national Statutes that cultural objects must be safeguarded in times of armed conflict (*supra*) or that illegally imported objects should not be returned immediately (*supra*). Apart from these and similar provisions there is no legal obligation to provide 'safe havens' for cultural objects which are in danger of being destroyed, pillaged or stolen at home or abroad. But if some state or institution is persuaded or feels morally obliged to provide shelter and deposit for endangered cultural property, it should like to know the legal implications of such an enterprise.

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[7] Paragraph 8 sentence 3 of the 1988 Berlin Declaration on Loans and Acquisitions of Archaeological Objects by Museums (25 Jahrbuch Preußischer Kulturbesitz p. 118 ff. (1988)) reads: 'All archaeologists should avoid aiding illicit trade by providing authentications or other advice to dealers or private collectors.'

[8] Cp. *Republic of Lebanon v. Sotheby's*, 561 N.Y.S.2d 566 (Sup.Ct. App.Div. 1990); *Republic of Croatia v. Trustee of Marquess of Northampton* 1987 Settlement, 648 N.Y.S.2d 25 (Sup. Ct. 1996).

Conditions for Safeguarding

Initiatives

In times of war, armed conflict and other disasters somebody has to take the initiative for safeguarding and one cannot wait until the owner or any government authority approves such an activity. This may be different if no extremely urgent measures have to be taken. Let me take the Afghanistan Museum in Bubendorf/Switzerland[9] as an example. This museum was founded in the summer of 1998 as part of the Bibliotheca Afghanica Foundation established in Liestal (in the canton of Basel-Landschaft) in 1983.[10] The initiative was taken by the Swiss couple Paul and Veronika Bucherer-Dietschi from Basel and was supported by Swiss government authorities, Afghan politicians and private persons from the German-speaking countries and France. UNESCO (Paris) served as a kind of coordinator. The museum was opened in October 2000. The museum exhibits all objects (art objects, clothing and objects from daily life) from Afghanistan and the Bibliotheca Afghanica Foundation runs the Afghanistan Institute which also organizes seminars, lectures and exhibitions, publishes books and cooperates with institutions devoted to Afghanistan studies. Coming back to the problem of the initiative for 'safe havens', it can be said that the Afghanistan Museum is a unilateral creation by Swiss people who asked for and received support from international organizations, the Swiss Federal Government and the government of the Canton of Basel-Landschaft, Afghan politicians and private persons. There was no contract between Swiss and Afghan parties.

This does not mean that here the country of origin has never had a stronger influence on the creation of a 'safe haven' for its endangered cultural treasures. As soon as cultural objects have to be evacuated and exported, even if only for temporary safekeeping, the exporting country in danger may give an export licence or prefer to store the art objects in a local shelter.

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[9] See also the contributions by Prott and Van Krieken, chapter 12 and 13 in this Volume.

[10] Cf. the information "Afghanistan Museum" in http://www.afghanistan-institut.ch/GERMAN/museum.html, with the founding document of 1983, as revised in 1998.

No country can be forced to put national cultural treasures in a 'safe haven' located abroad.

Conditions Attached to a Loan

If cultural objects are deposited in a 'safe haven', they should be treated in many respects as if they were on loan. The principal implication of such a qualification is that the objects are not owned by the institution serving as a 'safe haven'. The country of origin or anybody else entitled to the objects retains title and can dispose of them. The safeguarding institution is only a 'trustee' of the owner of the object until it can be returned to him.

Being an object on loan implies that it has to be stored safely according to the regular and accepted rules for storing objects of that kind. This does not have to be extensively explained because all museum personnel know how paintings, prints, archaeological objects and the like have to be preserved. In times of catastrophe this cannot be immediately achieved. Later, however, the objects have to be treated as objects on loan and preserved as such. If this cannot be done, the objects should be returned or taken to another institution which can serve as a 'safe haven'. If, for example, an illegally exported art object discovered in Switzerland should be returned to the country of origin, the return may be postponed until the object will be safe in the country of origin. This implies that the object will be safe in Switzerland. If, however, there is no 'safe haven' in Switzerland because no museum or other institution is ready to store the object properly, it has to be returned in order to escape responsibility for the safety of the object.

In post-war Germany many paintings and art objects collected and temporarily deposited at 'collecting points' belonging to the Allies and without any indication of their provenance were finally entrusted to the Federal Republic of Germany.[11] The Federal Republic distributed these art objects among German museums as 'Loans of the Federal Republic of Germany' in order to ensure that they are preserved properly until the owner of these objects will be discovered.[12] The Federal Republic itself had no 'safe haven', but had to rely on the cooperation of state museums willing to accept the paintings as

[11] Lane Faison 1997: 139–141.
[12] Gaensheimer 2004: 7 ff.

loans and thereby serving as 'safe havens' for these objects. They continue to do so today. In this case there was no other choice. Germany had to adopt a careful position because of its responsibility for World War II and could not decline to provide 'safe havens' because of financial burdens or lack of space. Russia declined to be the trustee of art objects looted by the Soviet Army in Germany. Russia confiscated the looted objects as—they called it—restitution in kind and treated them as Russian state property.[13]

The Afghanistan Museum in Bubendorf/Switzerland provides, as it calls it, a 'Museum in Exile' preserving Afghan objects until they may be taken to Afghanistan.[14] This more or less implies that the Bibliotheca Afghanica Foundation and its Afghanistan Institute are serving as trustees for the benefit of Afghanistan.

Termination of the Deposit

If the safeguarded art objects were a proper permanent loan the owner could terminate the loan at any time and ask for the return of the objects. Such a termination, however, should not conflict with the general idea of safeguarding the deposited art objects. Therefore careful distinctions are necessary. Where in times of armed conflict the art objects were removed because of the danger of destruction and when this danger is no longer inherent, the objects may be returned to a museum of the occupied territory. If there had not been political implications, Stephen's Crown of Hungary safeguarded by the United States could have been returned to Hungary even before 1978.[15] The objects exhibited in the Afghanistan Museum of Bubendorf, however, should not be taken to Afghanistan before they can be exhibited safely in Kabul. Also illegally exported objects withheld in Switzerland because of unsafe conditions in the country of origin (*supra*) should not be returned before these conditions have been improved. And this has to be decided by the Swiss authorities. In such cases the responsibility of all nations for the preservation of the cultural heritage of mankind prevails over the national interest to decide exclusively in matters concerning one's own national art treasures.

[13] Akinsha & Kozlov 1995: 153 ff.

[14] Cp. *Supra* note 10.

[15] *Dole v. Carter*, 444 F. Supp. 1065 (D. Kan. 1977), affirmed 569 F.2d 1109 (Tenth Cir. 1977).

Who is Entitled to Ask for the Return of Such Objects
The provenance of an art object may be unclear. Yet, the safeguarding institution must be careful to return the object to the person entitled to receive it. Any premature return to a person asking for its return may create problems if that person was not entitled to receive the object. There are two safeguards for the institution serving as a 'safe haven'. First, it is up to every plaintiff to provide evidence of his title. Second, if there is an actual or potential dispute between more persons, the safeguarding institution may deposit the object for the benefit of the plaintiffs in court and the plaintiffs may solve their dispute as to who is entitled to receive the object.

Compensation and Revenue
A loan is normally given without asking for compensation. But with respect to 'safe havens' the safekeeping institution may ask for compensation for the preservation of the endangered objects. Such a claim is known in most modern civil codes as a claim for the reimbursement of expenses incurred for the benefit of somebody else.[16] Apart from this, the host state may provide financial assistance. This is provided in the Swiss Federal Act of 2003 on the International Transfer of Cultural Property.[17] Article 14 (1) (a) of this Act provides: 'The Confederation may grant financial assistance to museums or similar institutions in Switzerland for the temporary fiduciary custody and conservatory care of cultural property that is part of the cultural heritage of another state and is in jeopardy in that state due to exceptional events.' The same has already been done by the Swiss cantons. The Canton of Basel-Landschaft substantially contributed to the establishment of the Bibliotheca Afghanica Foundation, i.e. the institution which is responsible for the Afghanistan Museum in Bubendorf.[18] Other countries should imitate this commitment to the preservation of the cultural heritage of mankind.

Another question is whether any revenue collected by the hosting institution may be kept by that institution. The answer is no. The

[16] Cp. Austrian Civil Code (ABGB) § 1036; Dutch Civil Code (B.W.) Article 6-200; German Civil Code (BGB) § 683; Greek Civil Code (A.K.) Article 736; Italian Civil Code (Codice civile) Article 2031; Spanish Civil Code (Código civil) Article 1893; Swiss Code of Obligations (OR) Article 422.

[17] *Supra* note 5.

[18] Article 3 of the charter of the 'Stiftung Bibliotheca Afghanica', *supra* note 10.

safeguarding institution is not allowed to make profits from the objects of another person. All the revenue collected must be invested in the preservation of the cultural objects and may be used to cover the expense of storing them.

Prevention of Abuse

There may be a temptation to 'safeguard' the cultural property of another person with the ultimate intention of keeping it. During World War II the German army and other German institutions were ordered to 'secure' cultural property in occupied territories not knowing that the objects would be confiscated for the benefit of Hitler's museum in Linz.[19] Also after the armistice there was an inherent danger that safeguarding would be used as a pretence for looting. The Wiesbaden Manifesto of 1945 was designed to prevent such abuse.[20] Also 'safe havens' for endangered cultural objects should be protected against any abuse. This can be achieved in different ways.

National Supervision by the Country of Origin

It should always be ensured that the country of origin will be informed of any safeguarding activities and the authorities of this country should be asked for their cooperation for the benefit of their treasures. Consent by the country of origin is not required. If it were, there would be a regular loan agreement or any other kind of contractual obligation for which a quasi-contractual 'safe haven' is not needed. It should, however, be known in the country of origin which objects are stored in the host country and which persons may be contacted in order to discover more about the objects and their storage.

National Supervision by the Host Country

For the host country it is easier to supervise any local 'safe haven'. This can be done in several respects as is demonstrated by the Afghanistan Museum in Bubendorf/Switzerland.

In order to protect a foreign state's cultural heritage which is jeopardized by exceptional events, the Swiss Federal Council (the fede-

[19] Haase 2002: 9 et seq.; Kubin 1989: 13 ff.; Schwarz 2004: 32 ff.

[20] Reprinted in 7 *International Journal of Cultural Property*: 275–276 (1998); Howe, *supra* note 2, at p. 274; Simpson, *supra* note 11, at p. 133.

ral government) may allow the import of cultural property.[21] This it has done.

The Museum is run and organized by a foundation (Bibliotheca Afghanica) established under Swiss law and supervised by the Federal Department of Interior Affairs.

The Canton of Basel-Landschaft is responsible for cultural affairs within its territory and it substantially contributed to the establishment of the Bibliotheca Afghanica Foundation.

These safeguards will guarantee that the Afghanistan Museum will not be abused as a disguised centre for illegally trading in the cultural treasures of Afghanistan.

International Supervision

The United Nations Educational, Scientific and Cultural Organization (UNESCO) may serve as a kind of supervisory body. This it did when the Afghanistan Museum in Bubendorf took care of cultural objects from Afghanistan.

UNESCO assumed a coordinating role with respect to the protection and evacuation of Afghan cultural treasures. It supported the task of the Afghanistan Museum as a 'safe haven' for Afghan cultural treasures until they can be transferred to Afghanistan as their place of origin. UNESCO insisted that the Afghanistan Museum does not acquire any objects from the trade market in order to guarantee that the Museum does not take part in any activity which might be tainted as a market for illegally exported or traded objects.[22]

The same could be done with any other 'safe haven' for endangered cultural treasures.

Coordination

Where help is needed and a 'safe haven' has to be found, coordination by an international organization is welcome. UNESCO is highly experienced in this field: it has already played a coordinating role in several cases[23] and should be asked to continue to do so in the future.

[21] Now article 8 (1) (a) of the Federal Act of 2003, *supra* note 5.
[22] Cp. Guideline no. 1 of the Afghanistan Museum, *supra* note 10.
[23] See also Van Krieken in this Volume, chapter 13.

Summary

1. 'Safe havens' for endangered cultural objects are needed in several situations. The protection of cultural objects is but one of these situations.
2. 'Safe havens' may be in the country of origin or in foreign countries.
3. There is no obligation on the part of any institution to serve as a 'safe haven' unless this is provided by specific national legislation.
4. If an institution serves as a 'safe haven' it has to take care of the stored objects as if they were on loan.
5. National governments should be encouraged to provide financial and technical support for 'safe haven' activities by local institutions.
6. In order to prevent any abuse, 'safe havens' should be supervised by the national authorities and international organizations.
7. UNESCO should be asked to serve not only as a supervising body but also as a coordinator.

References

Akinsha, K. & G. Kozlov 1995 *Beautiful Loot*, New York.
Bazin, G. 1991 *Souvenir de l'Exode du Louvre 1940–1945*, Paris.
Gaensheimer, S. (ed.) 2004 *Maria Eichhorn Restitutionspolitik, Politics of Restitution*, Köln.
Haase, G. 2002 *Die Kunstsammlung Adolf Hitler*, Berlin.
Howe, T. C. 1946 *Salt Mines and Castles*, Indianapolis, New York.
Kubin, E. 1989 *Sonderauftrag Linz*, Wien.
Lane Faison, J. 1997 'Transfer of Custody to the Germans', in *The Spoils of War*, E. Simpson (ed.), New York.
Schwarz, B. 2004 *Hitlers Museum*, Wien, Köln, Weimar.
Smola, F. 1999 *Die Fürstlich Liechtenstein'sche Kunstsammlung*, Frankfurt am Main.
Valland, R. 1997 *Le front de l'Art. Défense des collections françaises 1939–1945*, Paris.

CHAPTER EIGHTEEN

THE THREATS TO CULTURAL HERITAGE IN THE EVENT OF ARMED CONFLICT: A CHECKLIST

Fabio Maniscalco

War, especially during the last two centuries, has always been the main cause of the destruction, corruption and disappearance of international cultural heritage.[1] Cultural heritage can become a strategic objective for various reasons:

– military strategic reasons—e.g. the bombing of Monte Cassino[2] and of Dresden[3] during World War II, or the destruction of the Stari Most[4] during the conflict in the former Yugoslavia[5];
– the range and impact of weaponry—e.g. the extensive damage to Iraqi antiquities during the recent war,[6] or the devastation of sixty three percent of Croatia's Dubrovnik;[7]

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[1] See Lavachery & Noblecourt 1954; Boylan 1993; Clément 1994: 11–25; Maniscalco 1999a; Maniscalco 2002; Maniscalco forthcoming.

[2] The monastery of Monte Cassino, where St. Benedict first established the rule that ordered monasticism in the west, was entirely destroyed. Its unique library had been removed for safekeeping to Rome. See Bloch 1979; Böhmler 1964; Bond 1994; Parker 2004.

[3] See Irving 1965; Taylor 2005.

[4] About Mostar see AA.VV. 1992; Lévi Strauss 2002, 146–148; Mengozzi 2002: 159–168.

[5] See Glenny 1992; IPCS 1994; AA.VV. 1995b; Kaiser & von Imhoff 1995, *passim*; RDC 1995; Maniscalco 1997.

[6] See AA.VV. 2003a; Saporetti & Vidale 2003; ICOM 2003; Maniscalco 2003a: 84–85; Fales 2004; www.thebritishmuseum.ac.uk/iraqcrisis/index.html; cctr.umkc.edu/user/fdeblauwe/iraq.html; www.interpol.int/Public/WorkOfArt/Default.asp; www.mcdonald.cam.acuk/IARC/iarc/iraq.htm; icom.museum/redlist; oi.uchicago.edu/OI/IRAQ/Iraqdatabasehome.htm.

[7] Hundreds of shells fired by the JNA forces impacted in the Old Town area of the city, an UNESCO World Cultural Heritage Site. A number of buildings and the towers on the city walls were marked with the symbols mandated by the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict. See IPCM 1992a; IPCM 1992b; Kaiser & von Imhoff 1995, *passim*; MDC. See, moreover, The International Criminal Tribunal for the former Yugoslavia, case no. IT–01–42, *The Prosecutor of the Tribunal v. Miodrag Jokic*.

- ethnic or religious causes—e.g. the destruction of Turkish and Orthodox shrines in Cyprus,[8] or of the Baha'i holy places in Iran;[9]
- political reasons or *damnatio memoriae* of the previous regimes—e.g. the devastation of the Iraqi archives, libraries and Saddam's palaces;
- military logistic needs—e.g. the occupation of the ancient site of Babylon by the coalition troops;[10]
- accidental bombing because of human error or construction defects;[11]
- as part of an act of terrorism and a measure for annihilating the enemy's power—e.g. the destruction of the Bamiyan Buddhas in Afghanistan[12] (Plate 43); and
- the mere vicinity to a military objective or armament.

The ongoing warfare of the past few years confirms that different factions use horrendous and criminal ballistic strategies in order to mutilate children, carry out mass rapes or destroy the cultural heritage of the enemy. These strategies are not only aimed at destroying the enemy's future, but also at getting rid of his past. In order to deter future episodes of this kind of cultural holocaust, the protection of cultural property in conflict zones should be considered as an absolute priority, as important as the respect for human rights.

Risks for Cultural Property in the Event of Armed Conflict

Indirect Risks

In times of peace the main risks to cultural property are of a mechanical, physical, biochemical and man-made nature. In times of violent crisis these risks become more injurious and destructive.

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[8] See Gallas 1990; AA.VV. 1999a; Demosthenous 2000; Bacci 2002: 191–204; Demosthenous 2002: 205–206.

[9] See Martin 1992–93 and the web page http://news.bahai.org/story.cfm?storyid=323.

[10] In April 2003 American forces established a military camp at Babylon. In September 2003 command of the camp was handed over to the Polish army. See Curtis 2004.

[11] E.g. in 1982, for unknown reasons, a Danish guided missile completely destroyed a residential area in North Western Zealand; in November 2001 the Kabul offices of the Arab satellite al-Jazeera channel were destroyed by a US missile; during the war against the Federal Republic of Yugoslavia, five NATO missiles accidentally fell on Bulgaria.

[12] Dupree Hatch 1997–1998: 114–119; Maniscalco 2001: 8; Flandrin 2001: 205–211; Van Krieken-Pieters 2002: 305–316.

Mechanical Risks

Generally, mechanical damage to cultural patrimony is the result of:

- Mobility and transport—the transfer and recovery of movable cultural property to places of refuge or to another nation—realized quickly, without preventive planning, and using inadequate tools and personnel.
- Fortification and/or protection of monuments realized by non-expert personnel, quickly and without preventive planning.
- Reduction of the residual stability of a historical building and/or monument statically damaged by bombardments and/or weakened by a prolonged state of carelessness and utter neglect. The decrement of residual stability can be produced by:
    - violent storms that cause wind or water damage,
    - vibration produced when heavy vehicles (e.g. tanks) pass in the proximity of historical buildings,
    - earthquakes,
    - landslides, avalanches, tsunami, etc.,
    - the weight of rain, snow or other hazards on roofs.

Physical Risks

The physical risks to monuments and historical buildings, damaged by bombardment and leaking roofs, doors and/or windows, are especially derived from:

- Water infiltration and humidity. Due to bombardment and/or carelessness, the risks of water infiltration and humidity for immovable cultural property are increased by cracks in the external walls, by collapsing roofs, doors and windows, by the rupture of water pipelines, by leaking sewers, etc. During the last war in Iraq, for example, bombardments caused damage to the vault below the Central Bank in Baghdad, where precious collections from the Archaeological Museum of Baghdad were deposited.
- Thermal variations. Thermal variations can contribute to the deterioration of cultural property by means of freeze-thaw action and of sudden changes in temperature.[13]
- Light. Long or regular exposure to artificial or natural light may cause irreversible damage to certain objects (discoloration, fading, or a mechanical change such as brittleness).

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[13] MBAC 2001: 168–171.

Objects may be grouped into three categories according to their vulnerability to light: low sensitivity (stones, metals, ceramics, etc.), moderate sensitivity (wood, polychrome sculptures, oil paintings, tempera, bone, ivory) and high sensitivity (textiles, leather, graphic documents, colour photographs, etc.).[14]

– Pollution. From time immemorial war has led to environmental destruction.[15] Since the Persian Gulf War (Desert Storm 1991), the indiscriminate use of weapons containing depleted uranium has caused contamination in various countries (i.e. Iraq, Kuwait, Federal Republic of Yugoslavia and Afghanistan). Moreover, frequently oil wells and petrochemical complexes are bombarded or set on fire (e.g. petrochemical complexes in Yugoslavia, near Novi Sad and Pancěvo, or Iraq's and Nigeria's oil wells). The effects of pollution (e.g. acid rain or the diminution of the ozone flayer) also constitute serious dangers to cultural heritage.
– Fires.[16] Monuments and historic buildings are often most at risk from fire, because of the deployment of incendiary weapons (i.e. tracer bullets, incendiary bombs, fuel air explosives, etc.) and of new war strategies.

Bio-deterioration

Since the mid-19th century, the deterioration of cultural property due to environmental agents (lichens, bacteria or algae) has been recognized, and controlling efforts have been initiated since that time. The risks of bio-deterioration of cultural property in war areas are numerous.[17]

Man-made Risks

In war areas the risks deriving from human activities are:

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[14] AA.VV. 1982: 6–16.

[15] About the environmental hazards of war see Westing 1990; McKinnon & Vine 1991; Ramachandran 1991; Hawley 1992; Lanier-Graham 1993; Gamble & Ruiz-Roque 1995; Schmitt 1995–96: 237–271; Centner, 1996: 71–76; Grunawalt, King & McClain 1996; Notar 1996: 101–103; Schwartz 1998: 483–496.

[16] See D'Errico & Migliardini 2002: 97–107; Watts & Kaplan 2001: 165–178; Watts & Kaplan 2000; Stovel 1998: 43–55; Peterson & Sawyer 1998; AA.VV. 1997.

[17] In general on bio-deterioration, see: Caneva, Nugari & Salvatori 2005; AA.VV. 2004: 325–336; Sánchez Hernampérez 2004; AA.VV. 2003b; Allsopp, Seal &

– Improper use of monuments for strategic purposes—e.g. the Archaeological Museum of Priština,[18] or the Malwiya minaret in Samarra;[19]
– Neglect of building maintenance;
– Logistic transformation and improper use of monuments for military purposes—e.g. the 'Azykh Cave' in Azerbaijan[20] or the heavy equipment, helicopters and other machinery used by US and Polish Forces based at the Babylon site;
– Destruction of cultural property for ideological reasons—e.g. China's cultural genocide in Tibet, Enver Hoxha's policy to annihilate Albania's cultural property,[21] or the destruction of the Bamiyan Buddha statues by the Taliban;
– Vandalism against the enemy's symbols and culture—e.g. the destruction of Orthodox shrines in Kosovo;
– Illegal building or demolitions inside or near immovable cultural property—e.g. the illegal buildings near the Roman amphitheatre of Durrës;[22]
– Incorrect post-war restoration and improper consolidation which have been carried out with inadequate techniques, erroneous methods and/or incorrect means—e.g. the Gazi Husrev Bey Mosque of Sarajevo,[23] the Gazi Ali Bey Mosque of Vučitrn and the Hammam Mosque of Peć.[24]

Gaylarde 2003; Mandrioli, Caneva & Sabbioni 2003; Saiz-Jimenez 2003; Roquebert 2002; Ciferri, Tiano & Mastromei 2000; AA.VV. 1999c; AA.VV. 1995c; Garg & Garg, Mukerji 1994; AA.VV. 1993; Cumberland 1991; Agrawal 1985; Kraemer Koelier 1960; Greathous & Wessel 1954; Kieslinger.

[18] During the war in Kosovo the roof of the Museum was used to place anti-aircraft artillery.

[19] During the last war in Iraq, US army snipers were positioned at the top of the great minaret (Malwiya) in Samarra—the world-famous spiral minaret of the Mosque of al-Mutawakkil (built in 849/852).

[20] It was transformed into an ammunition warehouse. See *Report on the results of Armenian aggression against Azerbaijan and recent developments in the occupied Azerbaijani territories*, United Nations A/58/594–S/2003/1090.

[21] Maniscalco 1998a; Maniscalco 2002: 169–171.

[22] Maniscalco 1998a: 52–58.

[23] Maniscalco 1997: 48–51.

[24] Maniscalco 2000b: 20 and 30–31.

Direct Risks

In war areas the main direct risks for the cultural heritage derive from the intentional use of weapons against archaeological, artistic, architectonical and historical symbols of the enemy.[25] The worst weapons are explosives, in particular bombs. During the last few international conflicts the power and the precision of the new generation of sophisticated or so-called 'smart' weapons (rockets and, especially, missiles) has been emphasized. Before the wars in the Federal Republic of Yugoslavia and in Iraq, the Coalition Forces repeatedly declared that they would use accurately guided 'intelligent' bombs against Serbian and Iraqi military targets, so as to avoid accidents involving civilians, and they tried their utmost to spread the myth that the Iraq War would create a wonder in human history concerning 'the use of accurate guide weapons to avoid humanitarian disasters'. However, it is well known that as a result of human errors, civilian settlements and cultural monuments are frequently 'wrongly hit'. During aerial attacks, bombers can cover a large area with traditional or cluster bombs, but these do not have guided precision. Also individual and crew-served weapons can be destructive when used against movable and immovable cultural heritage.

Naturally, considering the tragic destruction of the Bamiyan Buddhas or of the Orthodox churches of Kosovo it is useful to reiterate that it is very difficult to prevent and to combat cultural terrorism without a Legislative and Executive Body in the international juridical system, able to codify and to apply rules that are valid and have characteristics of generality and universality.[26]

Main Damage to Cultural Property

The damage resulting from armed conflicts depends upon the nature of the armaments employed and upon the threats of collateral damage linked to the conflict.

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[25] On the 'direct risks' to cultural heritage in the event of armed conflict see Maniscalco forthcoming; Maniscalco & Mengozzi 2002: 73–82; Smith 1996; AA.VV. 1995a.

[26] Maniscalco 2005: 38–41.

Immovable Cultural Property

The main types of damage to immovable cultural property in war areas are the following:

- Blast. Most damage results from the high-pressure pulse, or shock wave, that moves rapidly outward from the exploding bomb.
- Fragments. Fragments (of bombs, window-glass and other objects) produced by an explosion, which travel at high velocities, are one of the primary causes of damage to frescoes, and architectonic and artistic decorations.
- Fire/high temperatures. Higher temperatures, produced by incendiary bombs, tracer bullets, vandalism, etc., may affect the structural strength of historic buildings or monuments.
- Use of mechanical means (excavators, bulldozers, etc.) against cultural property. For example, in the past few years the Israeli army has been using bulldozers and excavators to defeat guerrilla groups. In this way, numerous cultural monuments have been completely razed to the ground.
- Effects of violent storms that cause wind or water-stress, and vibrations produced by heavy vehicles or by earthquakes on monuments statically damaged by bombardments or weakened by the prolonged state of carelessness and utter neglect.
- Reduction of the residual stability of an historical building because of illicit construction work—e.g. the placing of armour plating, etc.
- Water infiltration because of bombardments or carelessness.
- Wall erosion because of great quantity of gives.

Movable Cultural Property

The main types of damage and/or risks to movable cultural property in war areas are the following:

- Blast. The shock wave tears and damages or destroys paintings, sculptures, or movable cultural items because of the overpressure of the air at the front of the blast wave and of the strong winds after the wave front has passed.
- Fragments. Fragments (of bombs, window-glass and other objects) produced by an explosion, which travel at high velocities, can become 'bullets' as far as paintings, sculptures, etc. are concerned
- Fire/high temperatures.
- Vandalism.

– Water infiltration and humidity.
– Looting and art theft crimes.[27]

Main International Instruments for the Protection of Cultural Property

The first normative provisions for the protection of international cultural property in war areas go back to the 19th century. One example is the Italian *Regolamento di servizio per le truppe in campagna* of 1833, another is the 'Lieber Code' of 1863. There were also the 'Brussels Declaration' of 1874[28] and the 'Oxford Manuals' of 1880[29] and of 1913.[30] Yet no State ratified these. The 'Brussels Declaration', under article 17, reiterated the principles of the 'Lieber Code':

> [. . .] toutes les mesures nécessaires doivent être prises pour épargner, autant qu'il est possible, les édifices consacrés aux cultes, aux arts, aux sciences et à la bienfaisance, les hôpitaux et les lieux de rassemblement de malades et de blessés, à condition qu'ils ne soient pas employés en même temps à un but militaire. Le devoir des assiégés est de désigner ces édifices par des signes visibles spéciaux à indiquer d'avance à l'assiégeant.[31]

The 'Brussels Declaration' imposed a duty on the besieged to indicate the presence of such buildings by distinctive and visible signs to be communicated to the enemy beforehand.[32] The 'Oxford Manuals' provided, in the case of bombardment, for the sparing of buildings dedicated to religion, art and science.[33] Moreover, the Manual of

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[27] On looting and art theft crimes see Fales 2004; AA.VV. 2003a; ICOM 2003; Brodie & Tubb 2002; Conforti & Maniscalco 2002: 121–133; Dupree Hatch 2002: 291–302; Maniscalco 2000a; Maniscalco 1998a, *passim*; Askerud & Clément 1997; ICOM 1997a; ICOM 1997b; ICOM 1997c; Oyediran 1997; Atti 1994; Bourguignon & Choppin 1994; Gallas 1990: 28–35.

[28] Déclaration de Bruxelles de 1874 concernant les lois et les coutumes de la guerre, 27 August 1874. See Hayez 1874: 297–305 and 307–308. See, also de Breucker 1974.

[29] The Laws and customs of War on Land, adopted by the Institute of International Law, Oxford, 9 September 1880.

[30] *Manual of the Laws of Naval War*, adopted by the International Institute of International Law, Oxford, 9 August 1913.

[31] See Rolin-Jaequemyns 1875.

[32] Verri 1985: 129.

[33] The Laws of War on Land, art. 34:

> In case of bombardment all necessary steps must be taken to spare, if it can be done, buildings dedicated to religion, art, science and charitable purposes,

1880 contained some norms[34] that inspired the Italian *Regolamento di servizio in Guerra* (1881–1882)[35] and the Laws and Customs of War on Land.[36] In particular, the 1899 and 1907 Conventions prepared at The Hague agreed upon the following provisions:[37]

– to spare buildings dedicated to religion, art, etc. or historic monuments;
– to indicate the presence of such buildings or historic monuments by distinctive and visible signs, which shall be notified to the enemy beforehand;
– to prohibit the destruction and seizure of the enemy's property, unless such are imperatively demanded by the necessities of war;
– to prosecute, legally, all seizure, destruction or wilful damage done to historic monuments, works of art and science.

Because of the development of air bombardment during the First World War, the 'Conference on the Limitation of Armament', convened in 1922, mandated a Commission of jurists to draft rules on air warfare. The Commission drew up a set of rules, aimed at

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> hospitals and places where the sick and wounded are gathered on the condition that they are not being utilized at the time, directly or indirectly, for defence.

Manual of the Laws of Naval War, art. 28:

> In bombardments all useless destruction is forbidden, and especially should all necessary measures be taken by the commander of the attacking force to spare, as far as possible, sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on condition that they are not used at the same time for military purposes.

[34] Art. 53:

> The property of municipalities, and that of institutions devoted to religion, charity, education, art and science, cannot be seized. All destruction or wilful damage to institutions of this character, historic monuments, archives, works of art, or science, is formally forbidden, save when urgently demanded by military necessity.

(b) Private property

If the powers of the occupant are limited with respect to the property of the enemy State, with greater reason are they limited with respect to the property of individuals.

[35] Marcheggiano 1989: 823–834.

[36] Convention with Respect to the Laws and Customs of War on Land (The Hague II, 29 July 1899); Convention (IV) respecting the Laws and Customs of War on Land and its annex Regulations concerning the Laws and Customs of War on Land (The Hague, 18 October 1907). In the Convention of 1907 almost all the text of the Hague II Convention was included.

[37] *Ibid.*

restricting air bombardment to military objectives.[38] Unfortunately, these rules were also never ratified.

So, up to the adoption of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, only the so-called 'Roerich Pact'—a regional treaty—had legal value, but only among the United States of America and the other American Republics.

The Hague Convention of 1954[39] is until now the main multilateral juridical instrument dedicated to the protection of cultural property in the event of armed conflict, although the cultural protection provisions of the 1977 Additional Geneva Protocols[40] and of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict are useful additions.[41] There is ample literature on the 1954 Hague Convention and both Protocols and are being discussed elsewhere in this Volume.

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[38] *Rules concerning the control of wireless telegraphy in time of war and air warfare* drafted by a commission of jurists tasked with studying and reporting on the revision of the laws of war, which met at The Hague between 11 December 1922 and 19 February 1923. See *American Journal of International Law*, 17, 1923, Supplement, 245–60; *American Journal of International Law*, 32, 1938, Supplement, 1–56; ICRC website www.icrc.org/IHL.

[39] Hague Convention 1954–1999.

[40] See Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted on 8 June 1977, art. 53:

> Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954, and of other relevant international instruments, it is prohibited:
> (a) To commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;
> (b) To use such objects in support of the military effort;
> (c) To make such objects the object of reprisals.

And art. 83, 4 (d):

> . . . Making the clearly-recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the violation by the adverse Party of Art. 53, sub-paragraph (b), and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives.

[41] The Hague, 26 March 1999. The Second Protocol was adopted with the aim of filling the gaps in the 1954 Hague Conventions. See Hague Convention 1954–1999; Leanza 2002: 25–40; Boylan 2002: 41–52.

Strategies for the Protection of Cultural Property in War Areas

Strategies for the protection of cultural property must be prepared in peacetime, at state or regional levels, in order to produce the correct conditions and to decide on the appropriate means for preserving movable and immovable cultural heritage.

In Times of Peace

It is important to involve both the military and the civilian world in:

- The planning of operative strategies for the protection of movable cultural property (e.g. transfer and recovery of cultural items to places of refuge or to another nation; works of protection for historical buildings, monuments and/or cultural sites).
- The planning of materials, means and personnel to achieve the protection of cultural property in the event of armed conflict.
- The creation of a national advisory committee for the implementation of the 1954 Hague Convention and the 1999 Second Protocol.
- The organization of training programmes or conferences and the drawing up of guidelines or manuals for military personnel and personnel employed to protect cultural property.
- Placing the distinctive Blue Shield emblem of the 1954 Hague Convention on the cultural property not under special protection.[42]
- The identification of places of refuge to which to transport and to shelter movable cultural property in the event of armed conflict.
- The identification of significant monuments, places of refuge and immovable cultural property and entering them in the 'Register of Cultural Property under Special Protection'.[43]
- Periodical training of military forces to work in collaboration with cultural heritage experts.
- Raising the awareness of the national public and the Armed Forces concerning respect for their and others' historical and cultural identity and to adopt useful measures to observe international treaties on the protection of cultural property.

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[42] 1954 Hague Convention, art. 17, paragraph 2 (a).

[43] 1954 Hague Convention, art. 8, and Regulation for the Execution of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, articles 12–15.

- Encouraging the systematic inventorying and cataloguing (graphic and video-photographic) of movable and immovable cultural property.[44]

During Armed Conflict

During armed conflict it is important:

- To avoid the use of historic buildings and monuments for military purposes.
- To ensure that designated places of refuge provide stable conditions for the storage of objects.
- To transport and to shelter movable cultural property to places of refuge or to another nation.
- To carry out works on the fortification and protection of monuments.
- To organize regular inspections to control the conservation conditions for cultural items inside the places of refuge and to control the activities of civilian and military personnel engaged in the protection of cultural property.
- To avoid illicit trafficking in cultural property, thereby checking military or civilian personnel upon departure.

Mitigation of Disasters and Preventive Protection

In the event of armed conflict, the main measures to prevent damage from explosions and the use of weapons are:

- Identification of means, instruments and/or techniques for the protection of movable and immovable cultural property in the event of armed conflict (e.g. mobility and transport, fortification of buildings against explosions, shoring walls, removing windows, etc.).
- Employment of specialized personnel in areas of expertise such as engineering, restoration, archaeology, art history, etc.
- Thickening of external walls.
- Fragmentation of long corridors and passages with sandbag walls. Such walls can reduce the effects of shock waves and block flying shell splinters.

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[44] See also the Object ID checklist system in Van Beurden, in this Volume, chapter 16.

– Adoption of specific technical and planning measures for fire-prevention strategy—e.g. use of automatic fire-suppression systems, designed to rapidly identify and extinguish a developing fire, the use of fire-resistant doors, the application of intumescent paint, the construction of barriers, the distribution of a layer (30 cm) of sand on the floor, etc.
– Keep roofs and gardens clear of flammable vegetation and/or materials.

Conclusion

Presently, a major part of international cultural property is inadequately protected from rapidly changing social and economic conditions and even less so from the effects of existing and potential natural and man-made hazards. Safeguarding the international cultural heritage from such risks is imperative. Although legal, scientific and technological resources to protect international cultural property do exist, these resources are not always properly employed. So, considering that movable and immovable cultural property has suffered grave damage or destruction during recent armed conflicts and that, by reason of the developments in the techniques of warfare, items of world cultural heritage are in increasing danger of destruction, it is with good reason that the international political and scientific community participates, dynamically and cooperatively, in their protection. It is also necessary that as many states as possible ratify the existing treaties (especially those involved in armed conflicts i.e. the USA and the UK) and lay down clear instructions concerning individual penal responsibilities and sanctions for defaulting States.

References

AA.VV. 1982 *La Conservazione nei Musei. Il controllo dell'illuminazione; il controllo del clima*, ICCROM, Istituto per i Beni Artistici, Culturali e Naturali della Regione Emilia-Romagna, Bologna.

—— 1992 *Mostar Urbicide*, Zagreb.

—— 1993a *Biodeterioration of Cultural Property. Proceedings of the Second International Conference, (Yokohama, Japan, October 5–8, 1992)*, Tokyo.

—— 1993b *Manual de Diagnosi. Tractament d'Humitats*, Collegi d'Aparelladors i Arquitectos Tecnics de Barcelona, Barcelona.

—— 1995a *Protecting Buildings from Bomb Damage. Transfer of Blast-Effects Mitigation Tecnologies from Military to Civilian Application*, Washington.

—— 1995b *A Report on the Devastation of Cultural, Historical and Natural Heritage of the Republic/Federation of Bosnia and Herzegovina (from April 5, 1992, until September 5, 1995)*, Sarajevo.
—— 1995c *Biodeterioration of Cultural Property. Proceedings of the Third International Conference on biodeterioration of cultural property, (Bangkok, Thailand, July 4–7, 1995)*, Bangkok.
—— 1995d *Gli Uffizi. Studi e ricerche, 14. I restauri dell'attentato. Consuntivo 1993–1995*, Firenze.
—— 1997 *Proceedings: International Conference on Performance-Based Codes and Fire Safety Design Methods*, Society of Fire Protection Engineers, Boston.
—— 1999a *Crucified Kosovo Destroyed and Desecrated Serbian Orthodox Churches in Kosovo and Metohija (June–October 1999)*, Belgrade.
—— 1999b *Cyprus. A Civilization Plundered*, Committee for the Protection of the Cultural Heritage of Cyprus, Nicosia.
—— 1999c *Biodétérioration et Desinfection des Collections d'Archives et de Bibliothèques. Actes des deuxièmes Journées sur la conservation préventive (Arles, 18 et 19 novembre 1996)*, Arles.
—— 1999d 'The Ten Agents of Deterioration. 5. Temperature & 6. Relative humidity', in *Natural Sciences Conservation Group Newsletter*, 10.
—— 2000 *La Climatologie dans les Archives et les Bibliothèques. Actes des troisièmes journées sur la conservation préventive (Arles, 2 et 3 décembre 1998)*, Centre Interrégional de Conservation du Livre, Arles.
—— 2003a 'Art Loss in Iraq', in *IFAR Journal*, 6, 1–2.
—— 2003b *Art, Biology, and Conservation. biodeterioration of works of art*, New York.
—— 2003c *Lo Stato dell'Arte. conservazione e restauro, confronto di esperienze, Primo Congresso Nazionale IGIIC (Villa Gualino, Torino, 5–7 giugno 2003)*, Gruppo Italiano, International Institute for Conservation, Torino.
—— 2003d *Uffizi oltre la facciata. Il restauro degli edifici pubblici danneggiati dall'attentato di via dei Georgofili*, Firenze.
—— 2004 K. F. Nielsen, G. Holm, L. P. Uttrup, P. A. Nielsen, 'Mould Growth on Building Materials under Low Water Activities. Influence of humidity and temperature on fungal growth and secondary metabolism', in *International Biodeterioration & Biodegradation*, 54, 4, 325–336.
Agrawal, O. P. 1985 *Control of Biodeterioration in Museums*, New Delhi.
Allsopp, D., K. J. Seal & C. C. Gaylarde 2003 *Introduction to Biodeterioration*, Cambridge.
Askerud, P. & E. Clement 1997 *Preventing the Illicit Traffic in Cultural Property. A Resource Handbook for the Implementation of the 1970 UNESCO Convention*, Paris.
Atti 1994 (AA.VV.) *La Circolazione illecita delle Opere d'Arte ad un anno dall'Apertura delle Frontiere Europee. Atti del 1º Convegno Internazionale (Roma 3–4 maggio 1994)*, C.do Carabinieri Tutela Patrimonio Artistico, Roma.
Bacci, M. 2002 'Monumenti, Simboli e Barriere di Cipro', in *La tutela del patrimonio culturale in caso di conflitto*, F. Maniscalco (ed.), collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 191–204.
Bloch, H. 1979 *The Bombardment of Monte Cassino (February 14–16, 1944). A new appraisal*, Grottaferrata.
Böhmler R. 1964 *Monte Cassino*, transl. from the German by R. H. Steven, London.
Bond, H. L. 1994 *Inferno a Cassino. La battaglia per Roma*, Milano.
Bourguignon, A. & J. E. Choppin 1994 *L'Art Volé. Enquête sur le vole et le trafic d'objets d'art*, Paris.
Boylan, P. J. 1993 *Review of the Convention for the Protection of Cultural Property for the Protection in the Event of Armed Conflict (The Hague Convention of 1954)*, Paris, UNESCO, Report ref. CLT–93/WS/12.
—— 2002 'The 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and its 1954 and 1999 Protocols', in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.), collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 41–52.

Breucker, J. de 1974 *La Déclaration de Bruxelles de 1874 concernant les Lois et les Coutumes de la Guerre*, Bruxelles.

Brodie, N. & K. Tubb (ed.) 2002 *Illicit Antiquities*, London & New York.

Caneva, G., M. O. Nugari & O. Salvatori 2005 *La Biologia Vegetale per i beni Culturali, vol. 1, Biodeterioramento e conservazione*, Firenze.

Carcione, M. 1999 'Il Simbolo di Protezione del PatrimonioCculturale. Una lacuna del Protocollo del 1999', in *Uno Scudo Blu. Per la salvaguardia del patrimonio mondiale. Atti del III Convegno Internazionale sulla Protezione dei Beni Culturali nei conflitti armati (Padova, 19–20 marzo 1999)* M. Carcione (ed.) Milano, 121–130.

Centner, C. 1996 'Environmental Warfare. Implications for Policymakers and War Planners', *Strategic Review*, 24, Spring, 71–76.

Ciferri, O., P. Tiano & G. Mastromei 2000 *Of Microbes and Art. The role of microbial communities in the degradation and protection of cultural heritage*, New York.

Clément E. 1994 'Some Recent Practical Experience in the Implementation of the 1954 Hague Convention', in *International Journal of Cultural Property*, 3, 1, 11–25.

Conforti, R. & F. Maniscalco 2002 'La tutela dei beni culturali mobili in Italia: il problema dei furti d'arte', in *La Tutela dei beni Culturali in Italia*, F. Maniscalco (ed.), Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", 1, Napoli, 121–133.

Cumberland, D. R. 1991 'Guidelines for the Prevention and Control of Biodeterioration', in *Collection Storage* 15, 4.

Curtis, J. E. 2004 *Report on Meeting at Babylon 11th–13th December 2004*, unpublished, The British Museum.

Danse, M. 1963 'Communication Relative à la Formation Culturelle dans l'Armée Aérienne au regard des Dispositions de l'article 7, 1 de la Convention du 14 mai 1954', in *Congrès de Florence 1961. Recueil de la Société internationale de droit pénal militaire et de droit de la guerre*, AA.VV., vol. 2, Strasbourg 147–151.

Demosthenous, D. (ed.) 2000 *The Occupied Churches of Cyprus*, Nicosia.

—— 'Evidence on the extent of the destruction resulting from the consequences of the 1974 Turkish invasion', in *La Tutela dei beni Culturali in Italia*, F. Maniscalco (ed.), Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", 1, Napoli, 205–206.

D'Errico, A. & F. Migliardini 2002 'Prevenzione incendi negli edifici di interesse storico e artistico', in *La Tutela dei Beni Culturali in Italia*, F. Maniscalco (ed.), monographic collection "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", Napoli, 97–107.

Dupree, N. Hatch 1997–1998 'Bamiyan Buddhas Endangered', in *Indoro-koko-kenkyu* [Indian Archaeological Studies], Rikkyo University, 19, 114–119.

—— 2002 *Assaults on the Afghan Cultural Heritage*, in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.), Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 291–302.

Fales, F. M. 2004 *Saccheggio in Mesopotamia. Il Museo di Baghdad dalla nascita dell'Iraq a oggi*, Udine.

Flandrin, P. 2001 *I Tesori Perduti dell'Afghanistan. Sulle tracce del patrimonio archeologico di una civiltà millenaria*, Milano.

Gallas, K. 1990 'The Plundering of Byzantine North Cyprus', in *Apollo*, 132–341, 28–35.

Gamble, R. O. & O. Ruiz-Roque 1995 *The Laws of Armed Conflict and Environmental Protection: Striking a Balance*, Springfield.

Garg, L. K., N. Garg & K. J. Mukerji (eds.) 1994 *Recent Advances in Biodeterioration and Biodegradation, Vol. I: Biodeterioration of Cultural Heritage*, Calcutta.

Glenny, M. 1992 *The Fall of Yugoslavia. The Third Balkan War*, London.

Greathouse, G. A. & C. J. Wessel (eds.) 1954 *Deterioration of Materials, Causes and Preventive Techniques*, New York.

Grunawalt, R. J., J. E. King & R. S. McClain (eds.) 1996 *Protection of the Environment During Armed Conflict*, Newport, RI, Naval War College.

Hague Convention, 1954–1999 *Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 14 May 1954) and Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 26 March 1999)*. Text in English the UNESCO web page www.unesco.org/culture/legalprotection/war/html_eng/index_en.shtml.

Hawley, T. M. 1992 *Against the Fires of Hell. The Environmental Disaster of the Gulf War*, New York.

Hayez, F. 1874 *Actes de la Conférence de Bruxelles*, Bruxelles.

ICOM 1997a *Looting in Angkor*, Paris.

—— 1997b *Looting in Africa*, updated reprint, Paris.

—— 1997c *Looting in Latin America*, Paris.

—— 2003 *Emergency Red List of Iraqi Antiquities at Risk*, International Council of Museums, Paris.

IPCM 1992a (Institute for Protection of Cultural Monuments) *War Damages and Destructions inflicted on the Culture, Monuments, Sites and Historical Centers in Croatia (rapport préliminaire jusqu'au 2 avril 1992)*, Zagreb.

—— 1992b *War damage on cultural heritage in Croatia: damage and destruction in may and june 1992*, Zagreb.

—— 1994 *Sarajevo, Destruction & War Damages of Cultural-Historical Heritage in Old Market Place in Sarajevo-Bascarsija*, Sarajevo.

Irving, D. 1965 *Apocalisse a Dresda. I bombardamenti del febbraio 1945*, Milano.

Kaiser, C. & H. C. von Imhoff 1995 *Information Report on War Damage to the Cultural Heritage in Croatia and Bosnia Herzegovina*, Strasbourg.

Kieslinger, A. *Les Principaux Facteurs d'Altération des Pierres a Batir*, text on-line www.icomos.org.

Kraemer Koelier, G. 1960 *Previsión y Conservación de Bibliotecas y Archivos contra Agentes Bióticos, el Fuego y Factores Climáticos*, Madrid.

Lanier-Graham, S. D. 1993 *The Ecology of War. Environmental Impacts of Weaponry and Warfare*, New York.

Lavachery, H. A. & A. Noblecourt 1954 *Les techniques de protection des biens culturels en cas de conflit armé*, Paris.

Leanza, U. 2002 'Il II Protocollo aggiuntivo del 1999 alla Convenzione de L'Aja del 954 sulla protezione dei beni culturali in caso di conflitto armato, in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.) Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 25–40.

Lévi-Strauss, L. 2002 'The action of UNESCO in Bosnia and Herzegovina to restore respect and mutual understanding among local communities through the preservation of cultural heritage', in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.) Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 143–148.

Mandrioli, P., G. Caneva & C. Sabbioni 2003 *Cultural Heritage and Aerobiology. Methods and measurement techniques for biodeterioration monitoring*, New York.

Maniscalco, F. & G. Mengozzi 2002 *I rischi "diretti" che minacciano i beni culturali in caso di conflitto armato*, in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.) Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 73–82.

Maniscalco, F. (ed.) 2005 *Tutela, Conservazione e Valorizzazione del Patrimonio Culturale della Palestina*, collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 5, Napoli.

—— 1997 *Sarajevo. Itinerari artistici perduti*, Napoli.

—— 1998a *Frammenti di Storia Venduta. I tesori di Albania* [*Art for sale. Albania's treasures*], Napoli.

—— 1998b *Article 7 of the Hague Convention 1954. Survey of Cultural Property in Sarajevo*, Supreme Headquarters Allied Powers Europe, Shapex '98, Shape (Mons).

—— 1998c *Sarajevo. Itinerari artistici perduti*, in Carcione, Marcheggiano, 40–45.
—— 1999a *Ius Praedae. La tutela dei beni culturali in guerra* [*Ius Praedae. The Protection of cultural patrimony in war*], Napoli.
—— 1999b 'La Memoria Perduta', in *Archeologia Viva*, genn.-febb., 82–85.
—— 2000a *Furti d'Autore*, Napoli.
—— 2000b *Kosovo e Metohija 1998–2000. Rapporto preliminare sulla situazione del patrimonio culturale* [*Kosovo and Metohija 1998–2000. Preliminar rapport on the situation of the cultural property*], Napoli.
—— 2001 'Afghanistan e qualche riflessione', in *Archeologia Viva*, 87, magg.-giu., 8.
—— 2002 (ed.), *La Tutela del Patrimonio Culturale in Caso di Conflitto*, collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli.
—— 2003a (s.v.) 'Guerra', in *Dizionario di Restauro Archeologico*, L. Marino (ed.), Firenze, 107–109.
—— 2003b 'Le rovine della Mesopotamia', in *Archeologia Viva*, 100, lug.-ago., 84–85.
—— forthcoming *Guidelines for the Safeguard of Cultural Property in the Event of Armed Conflict.*
Marcheggiano, A. 1989 'La condizione dei beni culturali nei conflitti armati dall'Unità d'Italia agli anni Trenta', in AA.VV., *Esercito e città dall'Unità d'Italia agli anni Trenta (Spoleto 11–14 maggio 1988)*, Deputazione di Storia Patria per l'Umbria, Perugia, 823–834.
Martin, D. 1992–93 *The Case of the Bahá'í Minority in Iran*, in http://bahai.org/article-1–8–3–7.html.
MBAC 2001 (Ministero per i Beni e le Attività Culturali), 'Atto di indirizzo sui criteri tecnico-scientifici e sugli standard di funzionamento e sviluppo dei musei. (Art. 150, comma 6, D.L. n. 112/1998)', in *Gazzetta Ufficiale della Repubblica Italiana* Suppl. n. 238, alla G.U. n. 244 del 19/10.
McKinnon, M. & P. Vine 1991 *Tides of War*, London.
MDC (Museum Documentation Centre) *The Destruction of Museums and Galleries in Croatia in the 1991 War*, Zagreb.
Mengozzi, G. 2002 'La Moschea della Tabacica a Mostar. Un monumento in Guerra, in La Tutela dei beni Culturali in Italia', F. Maniscalco (ed.), Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", 1, Napoli, 159–168.
Nahlik, S. E. 1967 'La protection internationale des biens culturels en cas de conflit armé', in *Recueil des Cours de l'Académie de Droit International*, 120, 2, 61–163.
—— 1974 'On some deficiencies of The Hague Convention of 1954 on the protection of cultural property in the event of armed conflict', in *Annuaire de l'Association des Anciens de l'Académie*, 44, 100–108.
Notar, C. E. 1996 'Operational Doctrine and the Environment', *Military Review*, 76, March–April, 101–103.
Oyediran, J. 1997 *Plunder, Destruction and Despoliation, An Analysis of Israel's Violations of the International Law of Cultural Property in the Occupied West Bank and Gaza Strip,* Ramallah.
Panzera, F. 1993 'La tutela internazionale dei beni culturali', in *Tempo di Guerra*, Torino.
Parker, M. 2004 *Monte Cassino. The hardest-fought battle of World War II*, New York.
Peterson, C. E. & S. F. Sawyer (eds.) 1998 *NFPA Fire Prevention Code Handbook*, Society of fire protection engineers, Quincy MA (USA).
Ramachandran, K. S. (ed.) 1991 *Gulf War and Environmental Problems*, New Delhi.
RDC 1995 (AA.VV.) *A Report on the Devastation of Cultural, Historical and Natural Heritage of the Republic/Federation of Bosnia and Herzegovina (from April 5, 1992, until September 5, 1995)*, Institute for the Protection of Cultural, Historical and Natural Heritage of the Republic of Bosnia and Herzegovina, Sarajevo.
Rolin-Jaequemyns, G. 1875 *Examen de la Déclaration de Bruxelles de 1874*, Institut de Droit International, 30 August, rapport.

Roquebert, M. (ed.) 2002 *Les Contaminants Biologiques des Biens Culturels*, Paris.
Saiz-Jimenez, C. (ed.) 2003 *Molecular Biology and Cultural Heritage. Proceedings of the International Congress on Molecular Biology and Cultural Heritage (Sevilla 4–7 March 2003)*, Seville.
Sánchez Hernampérez, A. 2004 *A Brief Bibliography on Pest Management*, in http://palimpsest.stanford.edu/byauth/hernampez/pestbib.html.
Saporetti, C. & M. Vidale (eds.) 2003 'Iraq. La civiltà fatta a pezzi', *Le Guide di Archeo*, 1.
Schmitt, M. N. 1995–96 'Environmental Law of War. An Invitation to Critical Reexamination', *Journal of Legal Studies* 6, 237–271.
Schwartz, D. M. 1998 'Environmental Terrorism. Analyzing the Concept', *Journal of Peace Research*, 35, July, 483–496.
Smith, P. D. & G. Mays 1996 *Blast Effects on Buildings. Design of buildings to optimize resistence to blast loading*, Washington.
Stavraki, E. 1996 *La Convention pour la Protection des Biens Culturels en cas de conflit armé*, Athèns.
Stovel, H. 1998 *Risk Preparedness. A Management Manual for World Cultural Heritage*, Rome.
Taylor, F. 2005 *Dresda 13 febbraio 1945. Tempesta di fuoco su una citta tedesca*, Milano.
Toman, J. 1994 *La Protection des Biens Culturels en Cas de Conflit Armé. Commentaire de la Convention de la Haye du 14 mai 1954*, Paris.
UNESCO 1995 *Informations sur la Mise en Oeuvre de la Convention pour la Protection des Biens Culturels en cas de conflit armé. Rapports de 1995*, Paris.
Verri, P. 1985 'The condition of cultural property in armed conflict. From Antiquity to World War II', in *International Review of the Red Cross* 246, 129.
Van Krieken, J., Pieters 2002 'Afghanistan's Shattered Cultural Heritage. Hope for Reconstruction?', in *La tutela del patrimonio culturale in caso di conflitto*, F. Maniscalco (ed.), collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 305–316.
Watts, J. M. Jr. & M. E. Kaplan 2000 *Fire Safety Codes and Heritage Preservation*, NPS Training Manual, U.S. National Park Service, Washington DC.
—— 2001 'Fire Risk Index for Historic Buildings', in *Fire Technology*, 37, 2, 165–178.
Wescher, P. 1988 *I Furti d'Arte. Napoleone e la nascita del Louvre*, Torino.
Westing, A. H. (ed.) 1990 *Releasing Dangerous Forces in an Industrialized World*, London.

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Maeda, Kosaku
Kosaku Maeda was born in Japan in 1933. He studied aesthetics and history of arts at Nagoya University. He was engaged in various archaeological projects of ancient Buddhist sites in Afghanistan between 1964 and 1977.

As Professor at Wako University from 1975 to 2003 he taught the history of cultures of Asia and history of thoughts. Since 2003, he has been working for the project to safeguard the Bamiyan site, which is funded by the UNESCO Japan Funds in Trust. Professor Maeda is a trustee member of the Japan-China Cultural Exchange Association, the Japan-Afghanistan Association, the Ancient Orient Museum, Japan, and the Hirayama Ikuo Silk-road Museum. He is a member of the International Coordination Committee for the Safeguarding of Afghanistan's Cultural Heritage, visiting researcher NRICP and also the Director-General of the Japan Institute for the Studies of the Cultures of Afghanistan.

His numerous publications include *The Landscape of colossal images* (1986), *The rise and decline of Bactrian kingdom* (1992), *Bamiyan: Buddhist site of Afghanistan* (2002), and *The archaeo-image of Asia* (2003).

MANHART, CHRISTIAN

Christian Manhart, a German art historian and archaeologist (Universities of Munich and the Sorbonne in Paris), joined UNESCO in 1987 where he worked as programme specialist in the Sector of Culture and the Executive Office of the Director-General. Presently, he is in charge of 17 Member States in the Europe/Asia region at the Division of Cultural Heritage. His tasks consist of direct assistance to these countries in the development of policies and strategies for the preservation of their cultural heritage, in particular through fund-raising, preparation, implementation and the evaluation of extra-budgetary projects. In Afghanistan, he is responsible for the UNESCO activities for the preservation of the Bamiyan site, the conservation of the minarets of Jam and Herat and assistance to the museums in Kabul and Ghazni.

Within UNESCO's mandate, assigned by the Afghan Government and the United Nations for the rehabilitation of Afghanistan's cultural heritage, he is currently Secretary of the International Coordination Committee for the Safeguarding of Afghanistan's Cultural Heritage and the Experts Working Groups for Bamiyan, Jam and Herat.

He has written many articles for international specialist publications on the preservation of cultural heritage in India, Bhutan and Afghanistan.

MANISCALCO, FABIO

Fabio Maniscalco has been Professor of Protection of Cultural Heritage and of Underwater Archaeology at the University of 'L'Orientale', Naples, Italy, since 1999. He is also a lecturer in Archaeological Restauration and a member of the Scientific Committee of the Post-graduate School at the Faculty of Architecture of the University of Florence. Maniscalco is the Director of the International Observatory for the Protection of Cultural and Environmental Heritages in Areas of Crisis of I.S.Fo.R.M., and the Vice-president of the Italian Committee of the Blue Shield and member of Italian ICOMOS. Since 1993 he has been the Honorary Inspector for the Underwater Archaeology of the Italian Ministry for the Protection of Cultural Patrimony.

He is the editor of the monographic-academic collection '*Mediterraneum. Protection of cultural and environmental studies*' and the Director of the '*Web Journal on Cultural Patrimony*' (forthcoming). Moreover, he is a co-editor of the scientific collection '*Studi di storia e topografia sulla Campania romana*' and an editorial board member of the Italian journal '*Archeologia Viva*'. He has written or edited 16 books and contributed more than 60 articles to scientific journals, proceedings of national and international conferences and/or other relevant Volumes.

Omland, Atle

Atle Omland is an archaeologist, he lives in Oslo and has heritage issues as his main research interest. Omland graduated from the University of Bergen in 1994. He later received masters degrees from both Cambridge University (1997) and the University of Oslo (1998) researching the UNESCO 1972 World Heritage Convention. He then worked as an archaeologist at the Museum of Cultural History (University of Oslo), but has since 2001 researched folklore on burial mounds in Norway for his doctorate thesis. Omland has also worked as a university lecturer in archaeology at the University of Oslo.

Prott, Lyndel V.

Lyndel Vivien Prott is an expert and consultant in Cultural Heritage Law, which she has taught, researched, written about, administered and still enjoys. Former Director of UNESCO's Division of Cultural Heritage, she is currently Adjunct Professor at the Australian National University, Canberra. She has authored, co-authored or edited over 200 books, reports or articles, written in English, French and German and published in Arabic, Croat, Chinese, Italian, Magyar, Russian, Slovak, Spanish and Ukrainian. She is currently teaching a long-distance learning course for the Australian National University (ANU) on International Heritage Law as part of a postgraduate degree in Sustainable Heritage Development while trying to find time to do more writing.

In her work at UNESCO she was responsible for the administration of UNESCO's Conventions and standard-setting Recommendations on the protection of cultural heritage and has spent three decades trying to help to find solutions for the blight of illicit traffic on the cultural heritage.

RAVEN, ELLEN

Ellen M. Raven (PhD Indology, Leiden 1991) teaches arts and the material culture of South Asia at the Kern Institute of Indology of Leiden University. Her research mostly focuses on early Indian numismatics from an art-historical perspective. So far, this has resulted in an in-depth study on the *Gupta gold coins with a Garuda-banner* and various articles on the coins of the Kushana and Gupta-Vakataka periods (1st–6th century A.D.). Her study of iconography and style also involves investigating any links between numismatic art and contemporary sculptural arts, painting, seals and inscriptions. Raven also studies the early architectural forms of India, in particular that of pillared shrines and halls. Raven is the general editor of a number of western publications by the international annotated bibliography *ABIA South and Southeast Asian Art and Archaeology Index*, which is available in print and online at www.abia.net.

RODRÍGUEZ GARCÍA, ANA ROSA

Ana Rodriguez completed her M.A. in art history from the University of Grenada, Spain in 1999. She specialized in the geography and history of the Renaissance. Thereupon she started working as Assistant Curator at the townhall of Paris V. Since 2002 she has worked as a Programme Coordinator for SPACH in Kabul, Afghanistan. Ms. Rodriguez recently commenced a Master's Degree in Cultural Heritage Management at the University of Barcelone.

SARIANIDI, VIKTOR

Viktor Sarianidi was born in 1929 in Tashkent, Uzbekistan. In 1952 he graduated from the State Central Asian University (Tashkent). For a year he worked at the History Museum of Samarkand and moved to Moscow where he was employed at the Institute of Archaeology of the Academy of Sciences of USSR, a post which he took up in 1954. Sarianidi gained his PhD degree in 1975 for the following research project: *Afghanistan in the Bronze and Iron Epochs*. His field activities started while at university. In 1948 he took part in the expedition in Samarkand and from 1949 until now, he has participated in different excavations in Turkmenistan, from 1972 exclusively in Margiana-Togolok-1. As for his excavations in Afghanistan, they took place parallel to his field works in Turkmenistan; in other words, he went to Turkmenistan in the spring of every year and, as

usual, he then went on to Afghanistan in the autumn. The excavations in Afghanistan started in 1969 and finished in 1978. During that year he headed one of the groups that excavated the famous golden Bactrian Hoard. He is the author of about 30 books, including: *Bactrian Gold. From the Excavations of the Tillya-Tepe Necropolis in Northern Afghanistan, Die Kunst des Alten Afghanistan, Margiana and Protozoroastrianism, Myths of Ancient Bactria and Margiana on its Seals and Amulets, Necropolis of Gonur-depe* and *Iranian Paganism.*

Siehr, Kurt

Kurt G. Siehr, M.C.L. (Ann Arbor), Dr. iur. (Hamburg), PhD (Zürich), Professor of Law, University of Zürich, Faculty of Law, Max-Planck-Institute Hamburg.

Prof. Siehr was born in Tilsit, East Prussia, Germany, in 1935. Undergraduate studies at the University of Hamburg Faculty of Law and graduate studies in 1962/63 at the University of Michigan Law School, Ann Arbor. Two bar examinations and doctorate studies in Hamburg. Research assistant and later research associate at the Hamburg Max-Planck-Institute for Foreign Law and Private International Law.

Professor Siehr taught private law (especially contracts and family law), private international law, comparative law and the law of cultural property in Hamburg and since 1980 in Zürich he has been associate professor and later a full professor with tenure. He is a guest lecturer in the United Kingdom (Southampton), Netherlands (Asser Institute and Hague Academy), Italy (Ferrara), Israel (Tel Aviv), Norway (Oslo), Greece (Thessaloniki), Hungary (Budapest) and Turkey (Istanbul).

Siehr has published widely. He is the author and co-author of 20 books and more than 260 law review articles, mainly on private international law, family law (including matrimonial property), comparative law and the law of cultural property He is the co-editor of two book series on *Art and Law* published in Zürich (Schulthess) and in Berlin (de Gruyter) and the assistant editor of the International Journal of Cultural Property.

Tarzi, Nadia

Ms Tarzi, the Founder and Vice-president of the Association for the Protection of Afghan Archeology, APAA, Inc., was born in Strasbourg, France. She has various diplomas (Decorative Arts, EST, Strasbourg,

National Holistic Institute of Emeryville, California). Since 1999 she has been working as a qualified translator in French/English. In 2001 Ms Tarzi became manager of the Afghan Resource Center, Fremont CA and in 2002 she founded APAA and is actively involved in organizing all kinds of PR events. In 2004 she travelled with the National Geographic Society TV and Film to participate in '*The Lost Treasures of Afghanistan*' documentary, which was aired on PBS in early 2005.

Ms Tarzi is also an accomplished poet; many of her poems have been published. She is also the co-editor of a forthcoming book for children entitled '*Afghanistan, Cultural Heritage*' and is the founder of *Afghankite*, a web-based resource site on children's and women's issues in Afghanistan.

THEUNS-DE BOER, GERDA

Gerda Theuns-de Boer has an MA from Utrecht University and specializes in art and the archaeology of South and Southeast Asia. Since 1991 she has been working for Utrecht and Leiden Universities. Between 1999 and 2002 she focused, whilst with the Kern Institute of Indology Leiden, on the conservation and documentation of the institute's photographic collection and was involved in the 'Preservation of University Collections' project (see www.beeldbank.wsd.leidenuniv.nl). Recently she has prepared a catalogue and exhibition on the theatre maker, photographer and archaeologist Isidore van Kinsbergen (1821–1905), the creator of the photographic series *Oudheden van Java/Antiquities of Java* (1863–1867) and *Boro-boedoer/Borobudur* (1873). She is currently working with the IIAS Leiden as an *ABIA* co-worker in publishing an annotated bibliography (available in bookform and at www.abia.net) focusing on the art and archaeology of South and Southeast Asia. She has written 11 photo columns for the IIAS Newsletter and is the author of *Isidore van Kinsbergen, fotopionier en theatermaker/Isidore van Kinsbergen, photo pioneer and theatre maker*, Zaltbommel: Aprilis, 2005.

THOMAS, DAVID

David Thomas graduated in archaeology and anthropology from the University of Cambridge in 1992 and successfully completed his Masters in Computing and Archaeology at the University of Southampton in 1995. He has since worked as computer officer at the British Institute in Amman for Archaeology and History, and as

Research Assistant (and more recently as Research Associate) on Prof. Nicholas Postgate's Kilise Tepe and Abu Salabikh projects.

Thomas was MJAP archaeological field Director in 2003, and took over as MJAP Director in 2005. His other research interests include wells and the archaeo-politics of water, mud-brick architecture and the use of space. Mr Thomas has extensive fieldwork experience in North Africa, Western and Central Asia, and he became an Affiliated Scholar in the Department of Archaeology, at the University of Cambridge in 2005.

Van Krieken-Pieters, Juliette

Juliette van Krieken-Pieters, LL.M, M.A., studied international law and art history at Groningen University, The Netherlands. She has since lived in Southern Sudan, Sweden, Pakistan and France and has been involved in many activities, including lecturing in Nordic art whilst in Stockholm; on Afghanistan at Webster University, Leiden and Thailand; in Asian art at Webster St. Louis (MO) and so on.

Van Krieken-Pieters was the first Secretary of SPACH, the Society for the Preservation of Afghanistan's Cultural Heritage, whilst she lived in Peshawar NWFP in the early 1990s. She is Secretary of Stichting Arman, a Society for humanitarian aid in Afghanistan and the Central Asian Republics. Her interest in, and support for, Afghanistan has taken her on a number of occasions to that fascinating country, most recently in 2004.

Her publications have focused on Afghanistan's cultural heritage protection, Asian Art, the preservation of cultural heritage in general as well as the legal aspects of humanitarian law within that realm. Juliette van Krieken presently lives, together with her husband and three children (14, 12 and 10 years young) in Vientiane, Laos, where she can be contacted using the following e-mail address: vkrieken@xs4all.nl.



1a. The National Museum of Afghanistan (Kabul Museum), 1996.
© Jolyon Leslie/SPACH



1b. The National Museum of Afghanistan (Kabul Museum), November 2005.
© Joop Teeuwen



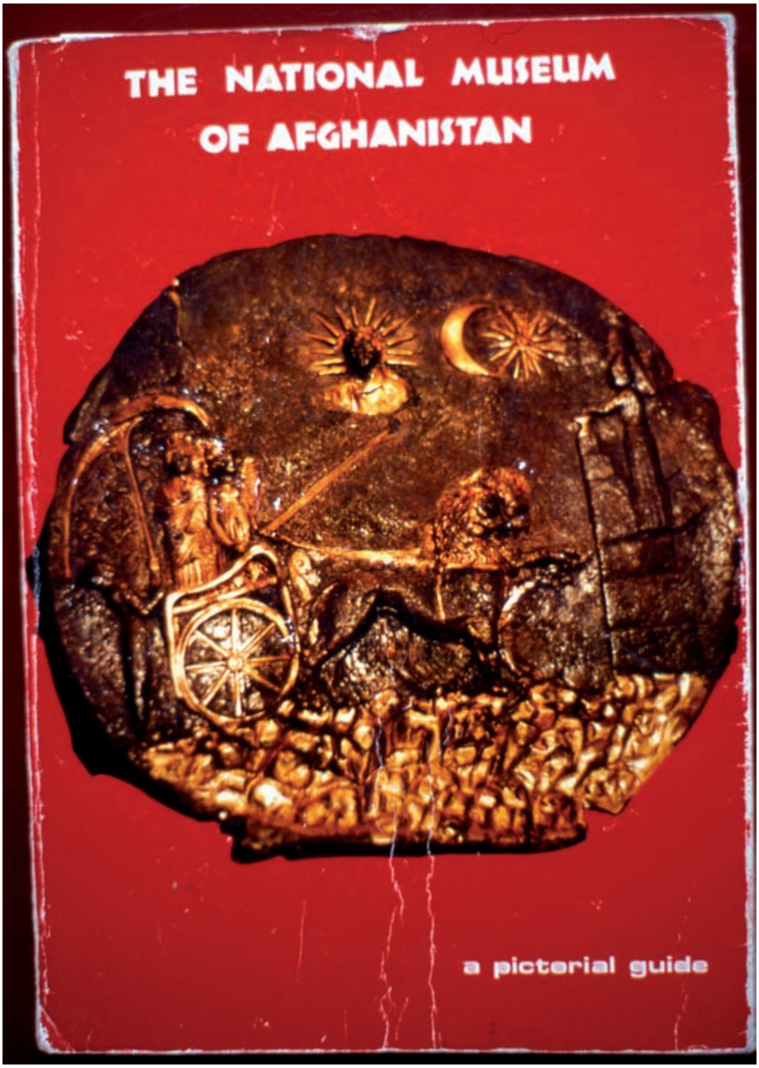
2a. Opening of the National Museum, September 2004. © Mohammed Zia/SPACH Photocatalogue



2b. Exhibition of the Nuristan collection that opened in December 2004. © Mohammed Zia/SPACH Photocatalogue


3a. Looted artefacts confiscated in Paghman, 2003. © Ana Rodriguez/SPACH


3b. Bodhisattva from Tepe Maranjan (Kabul), in the National Museum collection, smashed by the Taliban in 2001, restored in 2003. © SPACH Photocatalogue



4. The museum catalogue by Nancy Dupree *et.al.*, 1974, showing the Cybele Plague, gilded silver, from Ai Khanoum, early 3rd century B.C., 25 cm. © Nancy Dupree



5. Sculptured limestone pebble (Daddy's head), Upper Palaeolithic, ca 15,000 B.C., 6 cm. © Nancy Dupree



6. Golden mountain goat from Tilla Tepe (the Bactrian Gold), 5,2 cm, 1st century B.C.–1st century A.D. © Viktor Sarianidi



7. Golden buckles from Tilla Tepe (the Bactrian Gold), gold and semi-precious stones, 1st century B.C.–1st century A.D. © Viktor Sarianidi



8a. Golden clasps from Tilla Tepe (the Bactrian Gold), 9 cm, 1st century B.C.–1st century A.D.
© Viktor Sarianidi



8b. Golden crown from Tilla Tepe (the Bactrian Gold), 1st century B.C.–1st century A.D.
© Viktor Sarianidi



9a. Golden sword and sheath from Tilla Tepe (the Bactrian Gold), gold and semi-precious stones, 1st century B.C. – 1st century A.D. © Viktor Sarianidi



9b. Golden hilt of sword, detail of plate 9a



10. Golden necklace from Tilla Tepe (the Bactrian Gold), gold and semi-precious stones, 1st century B.C. – 1st century A.D. © Viktor Sarianidi



11. Golden belt from Tilla Tepe (the Bactrian Gold), 1st century B.C. – 1st century A.D.



12. The Bamiyan Valley with the niches of the colossal Buddhas, June 2004. © Juliette van Krieken-Pieters



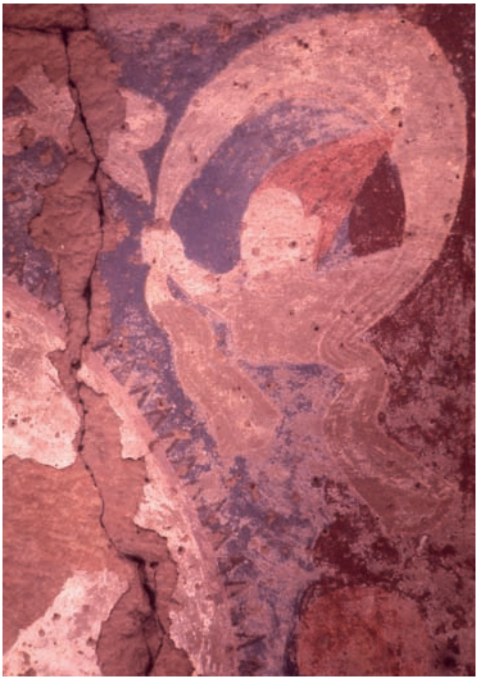
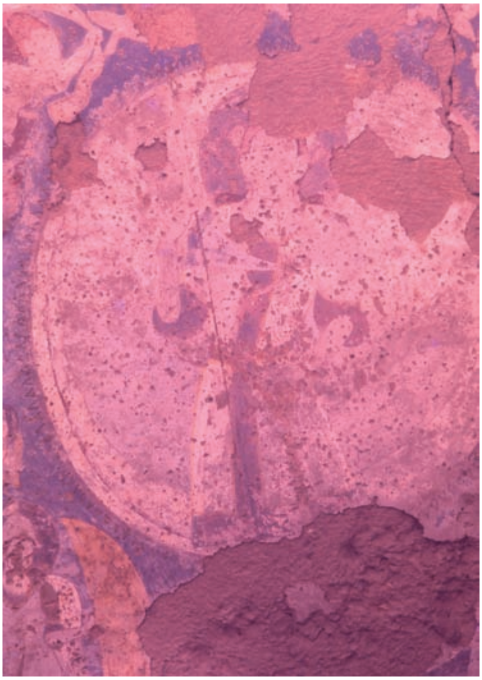
13. Small Buddha, Bamiyan Valley, early 6th century A.D., 38 m.
© Kosaku Maeda



14. Large Buddha, Bamiyan Valley, mid-6th century A.D., 55 m.
© Brigitte Neubacher



15. Empty niche of the Large Buddha of Bamiyan, June 2004. © Van Krieken-Pieters

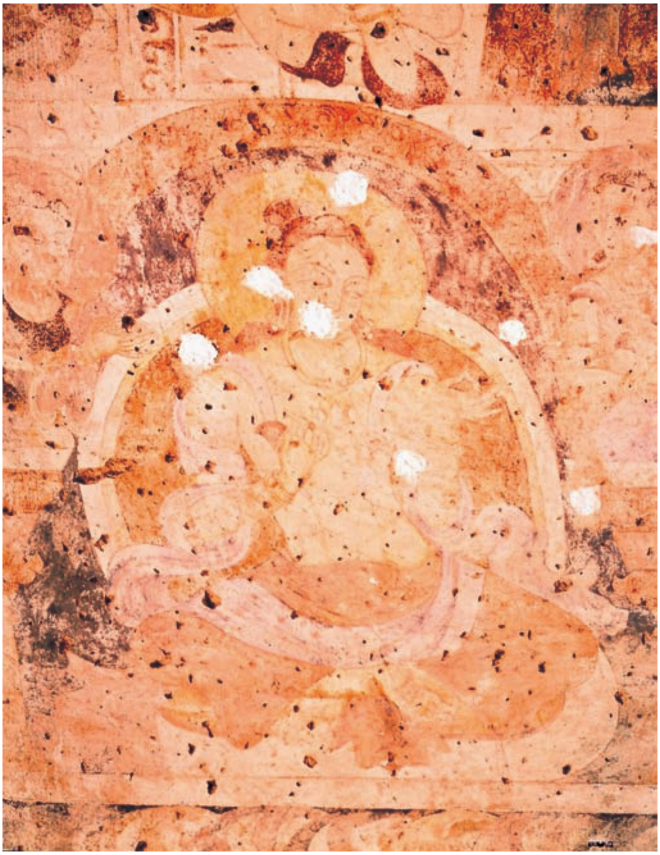
 

16a-b. A Wind God and the Sun God on the Great Composition (see Plate 35).



16c. The procession of the King's family

16a–16c: Mural paintings on the ceiling of the Small Buddha, 6–9th century A.D., now destroyed, 1960s. © Kosaku Maeda


17a. Bodhisattva on the west side wall


17b. Flying deities on the west side wall

17a–17b: Mural paintings on the ceiling of the Large Buddha, 6–9th century A.D., now destroyed, 1960s. © Kosaku Maeda



18a. Ceiling of a cave in the cliff of the colossal Buddhas. The stucco decoration is imitating traditional wooden architecture, June 2004.
© Juliette van Krieken-Pieters



18b. A monk cell in the cliff next to the Small Buddha, June 2004.
© Rina Teeuwen



19a. Niche of the Small Buddha showing critical cracks.



19b. Consolidation works on the niche of the Small Buddha.



20. The Buddhist stupa overlooking the ancient site of Kandahar. In the 1970s, explosives used in stone-quarrying in the ridge at the foot of the stupa was threatening its stability, 1977. © Warwick Ball



21. The Buddhist stupa of Guldarra. Extensive preservation measures have been carried out twice, but without proper maintenance, this and similar monuments remain under constant environmental threat, particularly from the effects of snow and ice, 1975. © Warwick Ball



22a. The 5th Minaret in Herat, 15th century, emergency stabilization works, carried out by UNESCO. © Sergio Colaone/UNESCO



22b. The 9th century Masjid-i No Gumbad outside Balkh. This has probably the finest early Islamic stucco decoration in Central Asia. A roof has been built by SPACH to protect it against the elements. In need of further protection and conservation measures, 2003. © Ana Rodriguez/SPACH Photocatalogue



23. The Minaret of Jam, 12th century, 2005. © David Thomas



24. The north bank of the Hari Rud showing the robber holes. © David Thomas



25a. The robber holes on the north bank of the Hari Rud, marked with red dots on a layer over a digital photograph image. © compiled by Danila Rosati and Martina Rugiadi.



25b. The QuickBird satellite image rectified by means of GPS data. The shadow of the Minaret of Jam is shown in the middle. © Kevin White



26. The huge remains of the Ghaznavid palaces at Lashkari Bazar, dwarfing the Baluch nomad market held in its forecourt every Friday, 1975. © Warwick Ball



27. The 16th century Baghe Babur in Kabul. More than 1.3 kilometres of massive earth, or pakhsa, perimeter walls had to be rebuilt as a first priority. Some sections of the perimeter walls are more than eight metres in height, June 2003. © Aga Khan Trust for Culture



28. Baghe Babur in Kabul. Babur's grave from around 1540, with re-created enclosure, September 2004. © Aga Khan Trust for Culture – Geneva



29a. The Babur gardens in Kabul in 1981, originally laid out by Emperor Babur in the 16th century. The gardens were extensively damaged in the fighting and recently largely restored by the Aga Khan Trust for Culture. © Warwick Ball



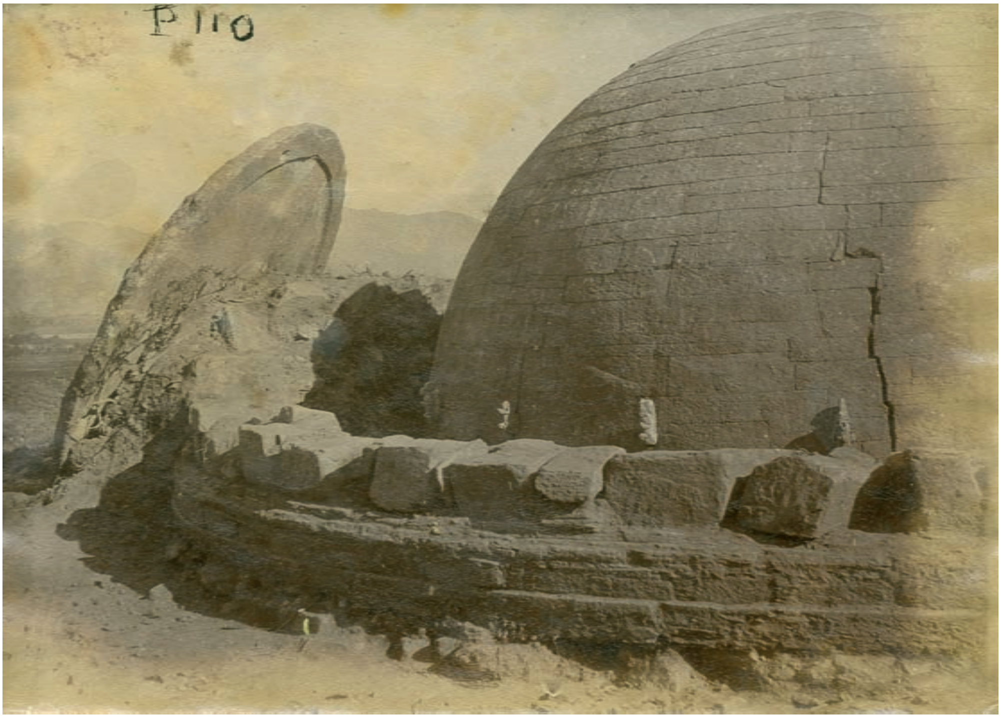
29b. Baghe Babur in Kabul: white marble mosque dedicated by Shah Jahan (1638), after restoration was completed, January 2005. © Aga Khan Trust for Culture



30a. Timur Shah Mausoleum in Kabul: the complex during the early stages of restoration, with the partially collapsed upper dome clearly visible, 2003. © Aga Khan Trust for Culture – Geneva



30b. Timur Shah Mausoleum in Kabul: the complex after completion of the dome and its major supporting walls, 2005. © Aga Khan Trust for Culture – Geneva



31. Alexander E. Caddy, low stupa with stone umbrella once crowning the top, Chakpat, Swat Valley, 1880s (Indian Museum list serial no. 1158), albumen print, 11.2 x 16.7 cm. Courtesy of Kern Institute, Leiden University



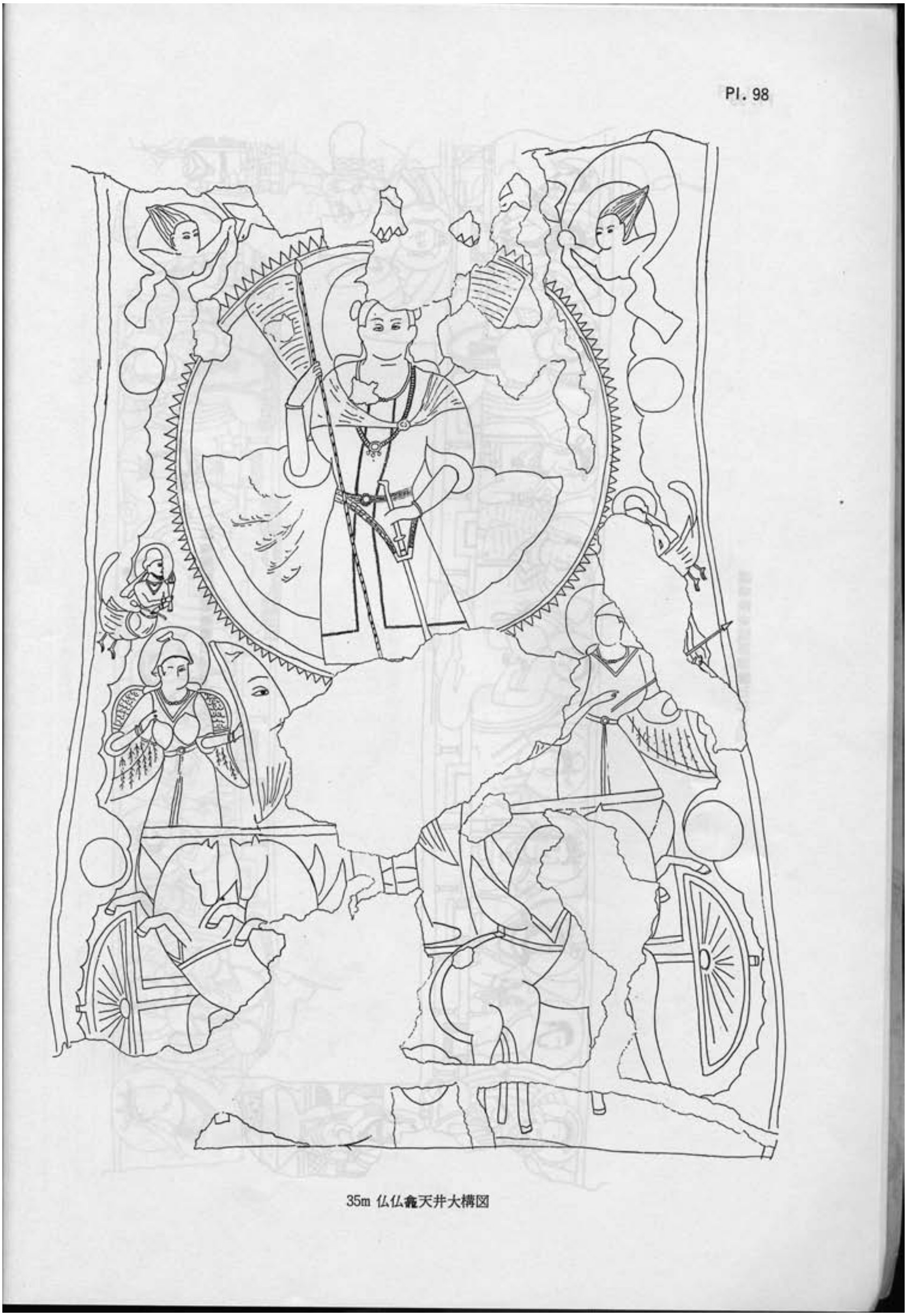
32. Alexander E. Caddy, assorted architectural fragments excavated at Loriyan Tangai, Peshawar basin, 1890s (Indian Museum list serial no. 1168), albumen print, 23.6 x 28.6 cm. Courtesy of Kern Institute, Leiden University



33. James Craddock, narrative scenes once decorating stupas, 'Jamal Garhi', 1880 (Indian Museum list serial no. 1000), albumen print, 27.2 x 23.8 cm.
Courtesy of Kern Institute, Leiden University



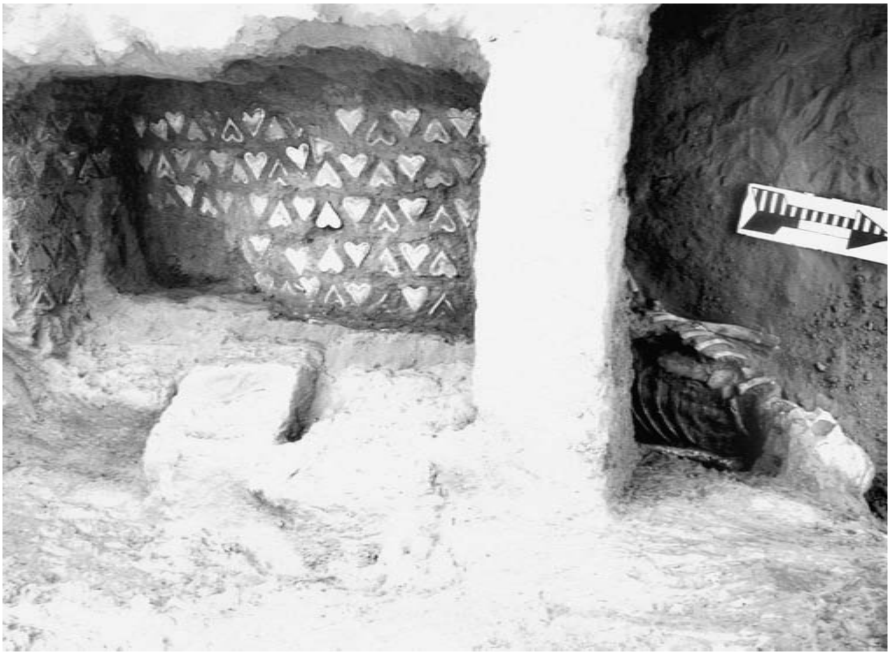
34. James Craddock, arrangement of Buddha images, 'Jamal Garhi', 1880 (Indian Museum list serial no. 973), albumen print, 27.2 x 23.7 cm. Courtesy of Kern Institute, Leiden University



35. The Great Composition on the ceiling of the Small Buddha of Bamiyan, sketch, 1960s.



36a. Overall view of the tomb nr. 3235, Gonur (Turkmenistan), 3rd millennium B.C., Bactria-Margiana Archaeological Complex, 2004. © Viktor Sarianidi



36b. 'Ostensorium' from the tomb nr. 3220, Gonur (Turkmenistan), 3rd millennium B.C., Bactria-Margiana Archaeological Complex, 2004. © Viktor Sarianidi







a | *c*
b

37a. Silver piece with animalistic scene, Gonur (Turkmenistan), 3rd millennium B.C., Bactria-Margiana Archaeological Complex, 2004. © Viktor Sarianidi

37b. Idem, sketch, 2004. © Viktor Sarianidi

37c. Silver object with marching camel, Gonur (Turkmenistan), 3rd millennium B.C., Bactria-Margiana Archaeological Complex, 2004. © Viktor Sarianidi



38a. The Minar-i-Chakri, after preservation measures were carried out in 1976 and before its destruction in 1998. © Warwick Ball



38b. Adoration of the Kasyapa brothers, schist, Paitava, 3rd–4th century A.D., stolen from the Kabul Museum mid-1990s. © Josephine Powell



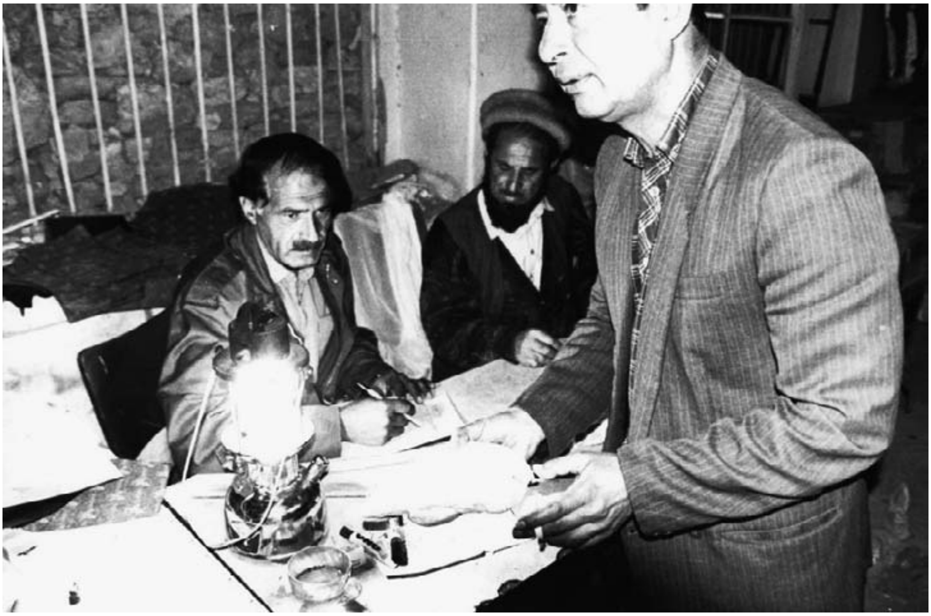
39a. Upper floor of the Museum, 1996. © Jolyon Leslie/SPACH Photocatalogue



39b. Looted coin cases, ground floor storeroom of the Museum, 1996. © Carla Grissmann



40. Upper floor offices of the Museum, 1996. © Jolyon Leslie/SPACH



41a. Registration of objects before their transfer from the Museum to Kabul Hotel, 1996. © F.E./SPACH Photocatalogue



41b. Transfer of objects from the Museum to Kabul Hotel, 1996. © F.E./SPACH



42. Large Buddha being used as a military depot, mid 1990s, by the Hezb-e Wahdat party. © SPACH Photocatalogue



43. Destruction of the Large Buddha, March 2001. © CNN



44a. The Kanishka statue, that had remained in the Museum, after its destruction by the Taliban, Spring 2001. © Ana Rodriguez/ SPACH



44b. Restoration of the Kanishka statue by an Afghan and French team (Musée Guimet). © Ana Rodriguez/ SPACH Photocatalogue



45. Restored Kanishka statue, 2nd century A.D., 2003. © Ana Rodriguez/ SPACH Photocatalogue



46a. Splintered pieces of the mounted ancestor figure from Nuristan, after its destruction by the Taliban, Spring 2001. © SPACH



46b. Mounted ancestor from the Nuristan collection, under repair by the museum restorers, 2003. © Mohammed Rafiq/SPACH



47. Restored mounted ancestor figure, 19th century, in the Nuristan exhibition in the Museum (see also Plate 2b), 2005. © Joop Teeuwen



48a. Figurine of baked clay, Mundigak, 3rd millennium B.C., 6 cm, Kabul Museum, 1960s. © Josephine Powell



48b. Bone or ivory seal, Shamshir Ghar, the so-called 'Flying Camel', 2nd millennium B.C., 3 cm, *obverse*, Kabul Museum, 1960s. Being used as SPACH's emblem. © Josephine Powell



49a. Silver tetradrachme, Kunduz, with bust of Archebios, after 100 B.C., *recto*, 16,87 gr., Kabul Museum, 1960s.
© Josephine Powell



49b. Idem, *obverse.*

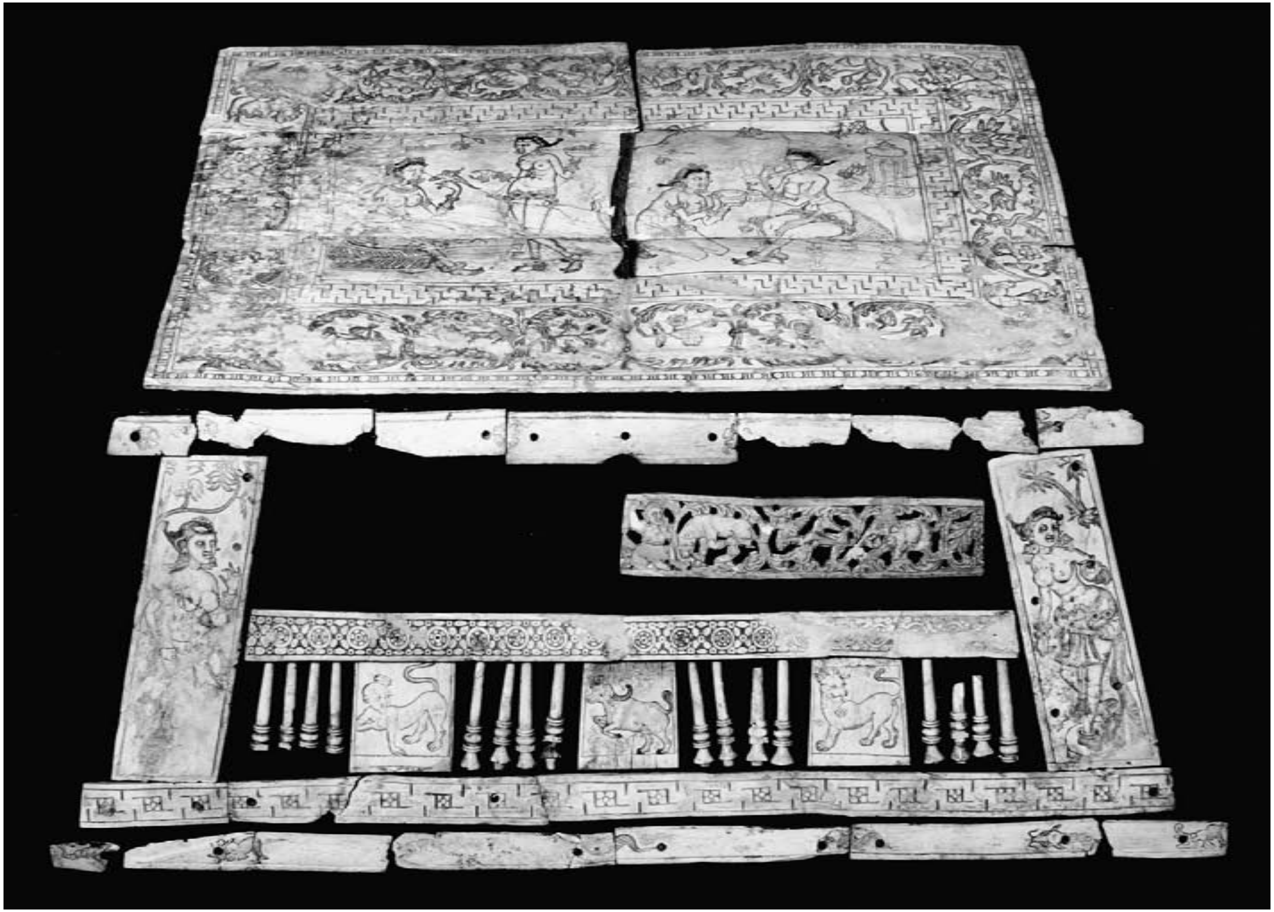
48a–56 and 58–59 as well as 38b: Photographs of objects from the Kabul Museum by Josephine Powell, 1960s.
© Josephine Powell/Documentation Center Fine Arts Library, Harvard University



50. Ivory throne back, Begram, 1st century A.D., 56,5 cm., Kabul Museum, 1960s. © Josephine Powell



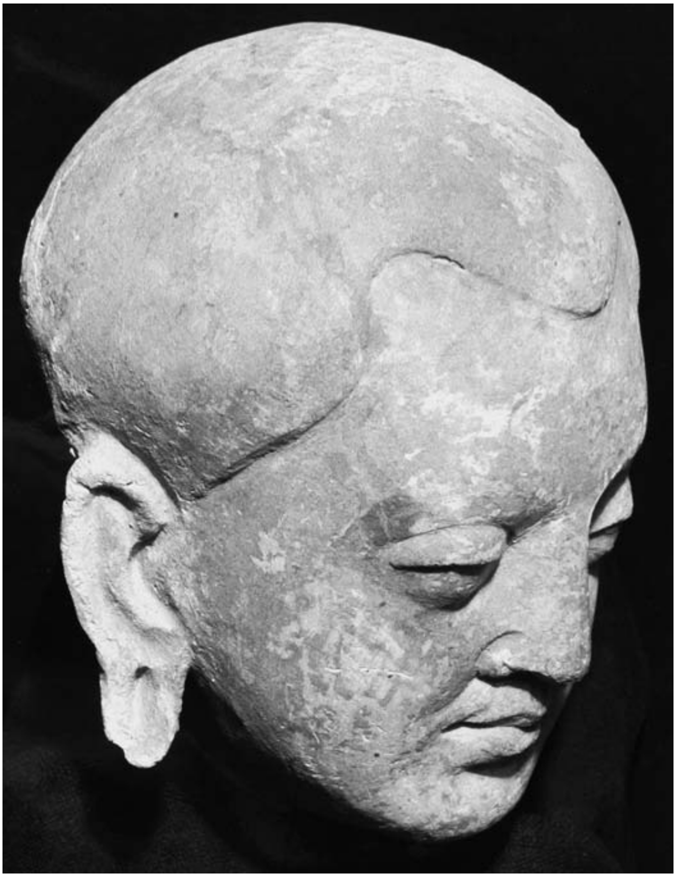
51. Glass cup, Begram, 1st century A.D., 9 cm., Kabul Museum, 1960s. © Josephine Powell



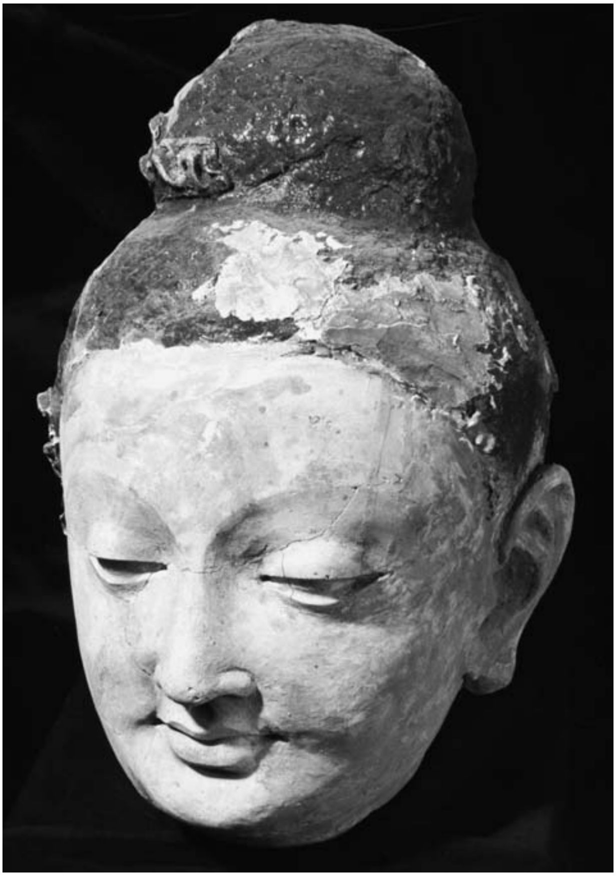
52. Ivory casket, Begram, 1st century A.D., 44 cm., Kabul Museum, 1960s. © Josephine Powell



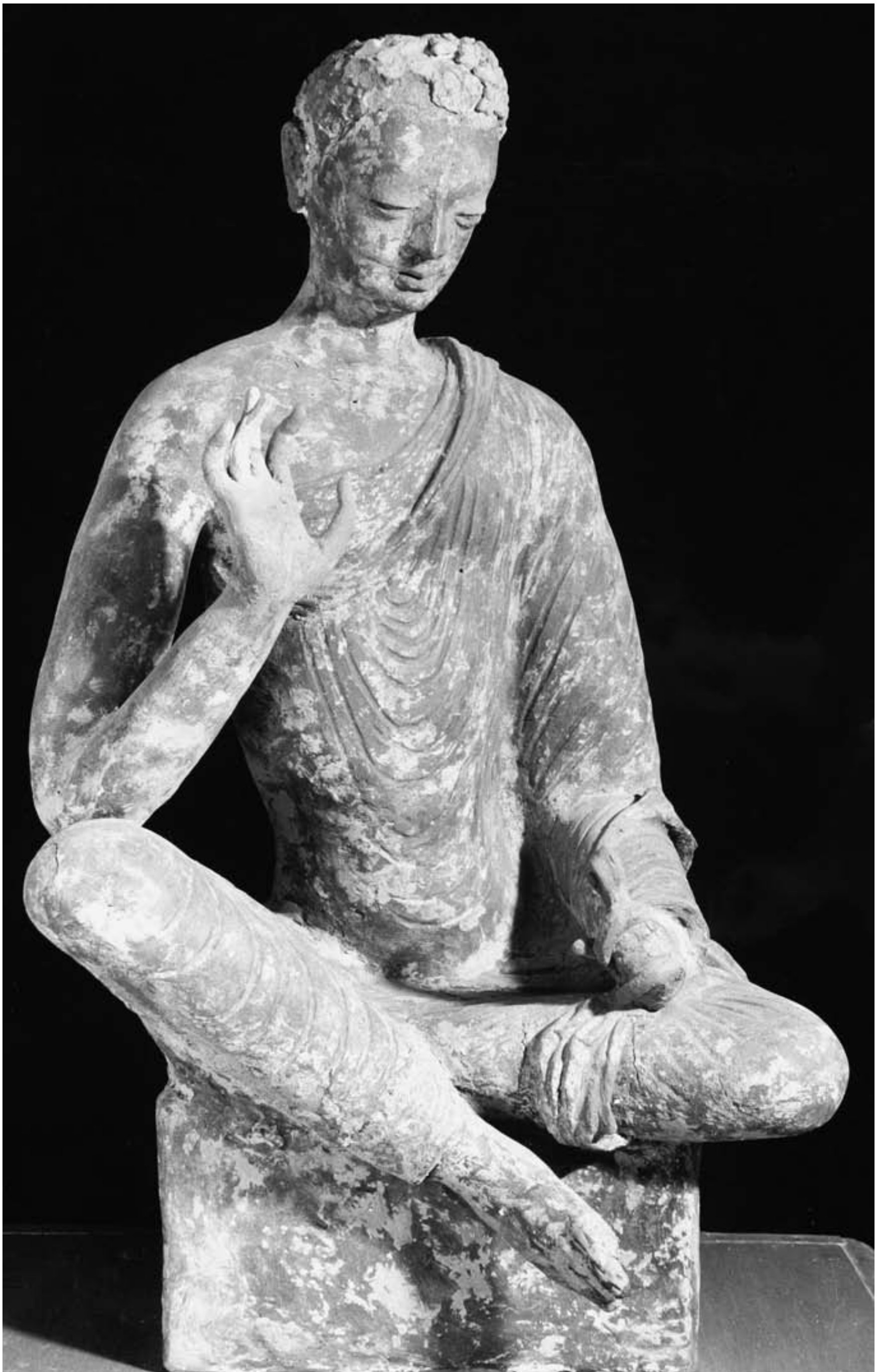
53. Detail of plate 52



54. Head of a monk, Hadda, stucco, 3rd-4th century A.D., Kabul Museum, 1960s. © Josephine Powell



55. Head of a Buddha, Hadda, stucco, 3rd-4th century A.D., Kabul Museum, 1960s. © Josephine Powell



56. Buddha in *abhayamudra*, Fondukistan, painted clay, 7th century A.D., 40 cm, Kabul Museum, 1960s. © Josephine Powell



57. Bodhisattva, Fondukistan, painted clay, 7th century A.D. circa 40 cm, Musée Guimet. © Juliette van Krieken-Pieters



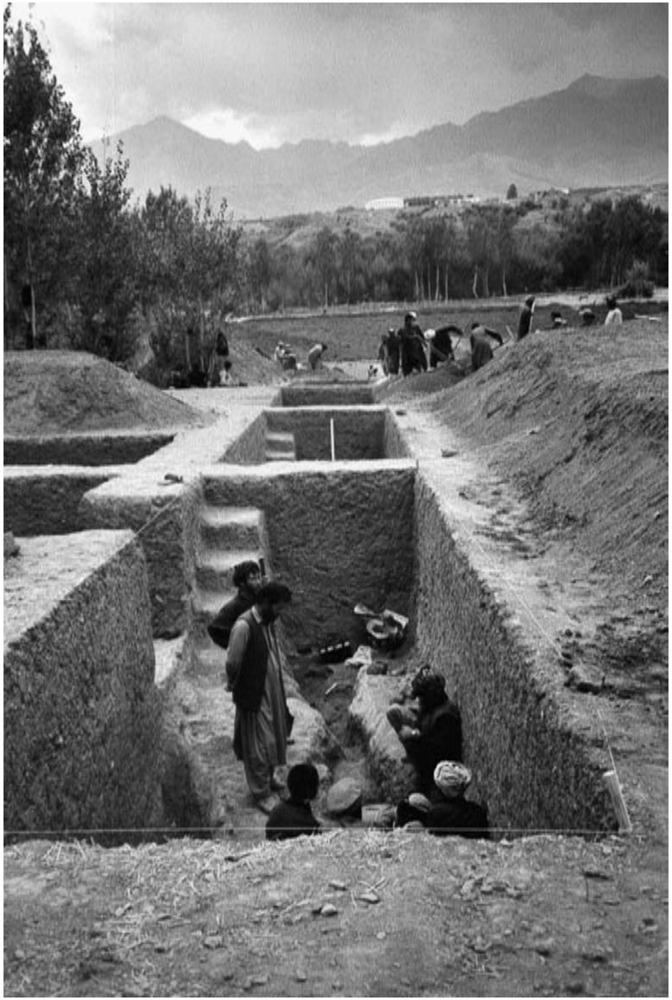
58. Youth holding a cup, school of Isfahan, circle of Aqa Riza and Riza-I Abbasi, around 1600, Kabul Museum, 1960s. © Josephine Powell



59. Portrait of a youth, Persian school of Qazwin or Isfahan, around 1590, Kabul Museum, 1960s. © Josephine Powell



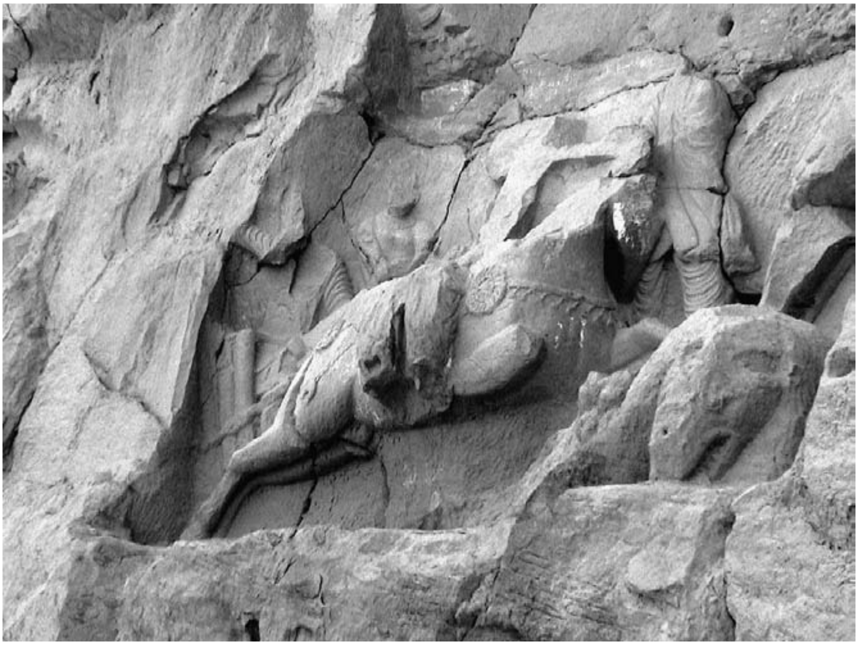
60a. Buddha head, Bamiyan, 3-5th century A.D., excavated 2004.
© Zemaryalai Tarzi



60b. Excavation at Bamiyan, monastery, 2004 © Zemaryalai Tarzi →



61a. Joint SPACH/DAFA mission to document the newly discovered Sassanid rock relief at Shamarq, Baghlan, 2004. © Brendan Cassar



61b. Idem, the Shamarq rock relief, 2004. © Brendan Cassar



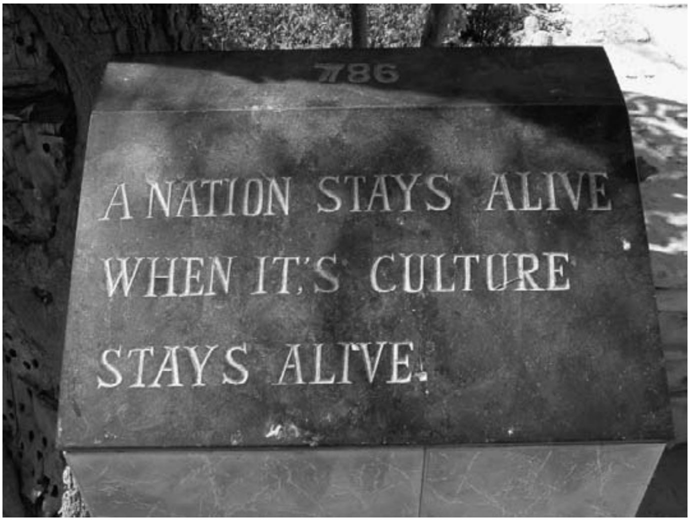
62. The Norwegian businessman Martin Schøyen, with manuscripts of the Schøyen Collection.
© Jon Hauge/SCANPIX



63a. Inventory process for the remaining objects, with Mr. Massoudi second from left, 2004. © Ana Rodriguez/SPACH Photocatalogue



63b. Conservation training in the Museum, 2005. © SPACH



64. Outside the National Museum of Afghanistan (Kabul Museum), November 2005. © Joop Teeuwen

ANNEX I

LIST OF ABBREVIATIONS

ACTED	Agence d'Aide à la Coopération Technique et au Développement
AKTC	Aga Khan Trust for Culture
APAA	Association for the Protection of Afghan Archaeology
ASI	Archaeological Survey of India
BMAC	Bactria-Margiana Archaeological Complex
DAFA	Délégation Archéologique Française en Afghanistan
GPS	Global Positioning Systems
HCSP	Historic Cities Support Programme
IARC	Illicit Antiquities Research Centre of Cambridge University
ICC	International Coordination Committee for the Safeguarding of Afghanistan's Cultural Heritage
ICC	International Criminal Court
ICCROM	International Centre for the Study of the Preservation and Restoration of Cultural Property
ICOM	International Council of Museums
ICOMOS	International Council on Monuments and Sites
ICTY	International Criminal Tribunal for the former Yugoslavia
IIAS	International Institute for Asian Studies
IsIAO	Istituto Italiano per l'Africa e l'Oriente
IsMEO	Istituto Italiano per il Medio ed Estremo Oriente
MJAP	Minaret of Jam Archaeological Project
NRICP	National Research Institute for Cultural Properties
NRK	Norwegian Broadcasting Company
SPACH	The Society for the Preservation of Afghanistan's Cultural Heritage
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNIDROIT	International Institute for the Unification of Private Law

ANNEX II

TRANSITIONAL ISLAMIC STATE OF AFGHANISTAN
MINISTRY OF JUSTICE
OFFICIAL GAZETTE

LAW ON THE PRESERVATION OF HISTORICAL AND CULTURAL HERITAGE[1]

Issue No. 808
Sawar 31st 1383
May 20th, 2004

To:

The Minister of Justice,

The board of the Directory of the Revolutionary Council of the Democratic Republic of Afghanistan in its historical session on 29/8/1359 ratified and recommended, within 87 articles, the law for the preservation of the historical and cultural heritage, which was decided by the council of the Democratic Republic of Afghanistan in its decision No. 2602 dated 24/8/1359.

Approval circumstances of the aforesaid has gained the view of his Excellency the Head of the Revolutionary Council of the Democratic Republic of Afghanistan, and under order No. 1311 dated 6/9/1359 of the directory board of the Revolutionary Council, which has reached the Prime minister, you are informed to publish the mentioned Law in the official Gazette.

Sultan Ali Kishtmand

Deputy to the Head of the Revolutionary Council and
Deputy Prime Minister

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[1] (Unofficial) translation. With thanks to Mr Massoudi (Director of the National Museum).

Law for the Preservation of the Historical and Cultural Heritage

Table of Content

Chapter 1 General Orders

Article 1

This law is adopted pursuant to article (9) of the constitution for the Preservation of the Historical and Cultural Heritage.

Article 2

The historical and cultural heritage of Afghanistan belongs to the people of Afghanistan and is the manifestation of their participation in the evolution of the cultural heritage of mankind. It is the duty of the State and the people of Afghanistan to protect their historical and cultural heritage.

Article 3

In this law the historical and cultural heritage means:

1. Any product of mankind, movable or immovable which was an outstanding historical, scientific and/or cultural value which is at least one hundred years old

2. Products which are less than one hundred years old, but which because of their scientific, artistic and cultural value, are also recognized as worthy of being preserved

Article 4

The scientific, artistic and cultural value of products afore mentioned in Article 3 shall be determined by the Archaeological Committee and is applicable after the approval of the Minister of Information and Culture.

Article 5

For the purpose of study and research of the historical and cultural heritage, a committee will be formed and will be named the Archeological Committee. This committee will consist of:

1. The Director of the Institute of Archaeology is designated as the Head of the Committee.
2. Two scientifically competent archaeologists chosen by the Ministry of Information and Culture.
3. One scientifically competent member of the Museum chosen by Ministry of Information and Culture.
4. One historian, from the Academy of Science, chosen by the Director of the Academy.
5. [A lecturer from the Faculty of Social Sciences from the University of Kabul at a higher rank than (Poohandoi)].
6. [One engineer, from the Department for the Preservation of and Rehabilitation of Historical Monuments, chosen by the Minister of Information and Culture].

Article 6

In the case of ambiguity, as to whether a historical and cultural heritage object is genuine or forged, the decision of the Archaeological Committee will be final.

Article 7

The Institute of Archaeology [and the Department for Preservation and Rehabilitation of Historical Monuments] is bound to survey and register all historical monuments and sites, specify their limits, collect and organize all the documentation and references pertaining to them.

No person can build or allow another to construct a building within the registered limits of an archaeological area without the permission of the Institute of Archaeology.

Article 8

All historical and cultural properties, movable or immovable, in Afghanistan, discovered or hidden in the earth [or to be discovered] are classified as property of the State, thus the transformation of such object without permission is prohibited.

Article 9

The owner of the land cannot take possession of unearthed, or excavate hidden, historical and cultural properties by the virtue of ownership.

Article 10

Whenever, municipalities, urban housing building corporations, irrigation projects, and any other government or private corporations in undertaking construction, expansion and improvement projects, come across valuable historical and cultural objects, they are bound to stop their work and inform the Institute of Archaeology [the Ministry of Information and Culture] on the issue.

Article 11

In the case that construction work endangers an archaeological property or its site, the project is suspended until a definitive solution is found for their protection.

Article 12

Any modification of the structure of a registered monument of historic value is prohibited without the authorization of the State [Ministry of Information and Culture]. The State [Ministry of Information and Culture] takes proper arrangements for the protection of such monuments.

Article 13

The Archaeological Committee will fix and pay reasonable compensation to those who help the State in the discovery of historical and cultural heritage [after the approval of the Ministry of Information and Culture].

Chapter 2 Immovable Historical and Cultural Properties

Article 14

1. Registration of immovable historical and cultural property will be undertaken after the ratification of the Archaeological Committee and the approval of the Ministry of Information and Culture and will be published in the State Newspapers for public knowledge.
2. The Institute of Archaeology is bound to attribute a registration number to the registered historical and cultural property and send copy to the related provinces and municipalities.
3. The boundaries of the immovable historical object should be measured by the Archaeological Committee.

Article 15

Sacred places or historical buildings, which have been registered as historical and cultural property, remain in the custody of the owner, custodian of pious legacies [Department of Historical Monuments], Institute of Archaeology or the local administrative authority. In this case, the person or the administration [Department of Historical Monuments] is bound to protect them and take advice for the preservation of their authenticity from the Institute of Archaeology.

Article 16

Burial of the dead, digging wells, drains and ditches, quarry mining with dynamite, building chimneys, driving heavy vehicles or any other operation which cause loss and damage to the historical and cultural property, within the limits of the archaeological territory is not allowed without the permission of Institute of Archaeology.

Article 17

The State can, if necessary, at the instigation of the Ministry of Information and Culture and upon approval from the Council of Ministers, acquire at a reasonable cost the ownership of immovable historical and cultural properties and sites.

Article 18

The claim of having been in possession (zulyadi) of immovable historical and cultural properties, for a long period of time, is not acceptable and is not a proof of ownership.

Article 19

1. The finder of immovable historical and cultural properties, or the owner of the land, or rightful user of landed properties where such heritage properties have been discovered, are bound to inform the administrative authority of their discovery within one week in urban areas and within two weeks, in rural areas, and the administrative authority shall inform the Institute of Archaeology without delay. Such properties are known as Public Property. The State shall acquire, at a reasonable price, the ownership of the land and the habitable premises, on which the historical and cultural property is situated or constitutes a part of.
2. If the discovered immovable historical and cultural property includes movable historical and cultural property such properties are regarded as State properties and the owner will be given reasonable compensation under Article 12 of this law.

Article 20

The Institute of Archaeology can study, draw, photograph and mould all immovable properties. The owner is bound to provide necessary facilities to the archaeological representatives for this purpose.

Article 21

If a private property is contiguous to that of historical or cultural property, in case of construction or modification of a building, prior permission must be obtained from the Department for the Preservation and Rehabilitation of Historical Monuments.

Article 22

The transfer of ownership of a registered immovable historical and cultural property will take effect one month after the Institute of Archaeology has been informed. The notification will include the identity and a photocopy of the title of the new owner.

Article 23

The immovable historical and cultural object that comes under the public properties can not be sold.

Chapter 3 Movable Historical and Cultural Properties

Article 24

Movable historical and cultural properties, which have been in the custody of a real or legal person, before the application of this law, are registered by the Ministry of Information and Culture. The owners of the movable heritages are bound to inform the Institute of Archaeology in the capital. In this case the private ownership of these properties is preserved.

Article 25

The Directorates of Information and Culture are to inform the Institute of Archaeology officially and send an inventory of the properties for registration, within 15 days. Also the Institute of Archaeology is bound to send the copy of registration card to the relevant administration of information and culture within 3 months.

Article 26

The finder of movable properties is bound to inform the Institute of Archaeology within one week in the capital, and the Office for the Preservation of Historical and Cultural Heritage or to the local administration in the provinces, within two weeks. The administration is obliged to inform the Institute of Archaeology in the shortest delay. Rewards will be given to the finder of the historical or cultural property according to the Article 13.

Article 27

In case, the Institute of Archaeology feels it necessary to own a movable historical or cultural property, for scientific purposes, it has the right to buy it by pre-emption. If the owner does not agree, the Institute has the right to take the case to court.

Article 28

1. The Institute of Archaeology can request a registered historical or cultural movable property, which is in the custody of private persons for the purpose of studying, drawing, molding, photographing and for scientific and technical use. After the completion of this research, the Institute must return it to the owner or within a reasonable delay. Also the Institute the Archaeology can publish such historical and cultural properties.
2. The Institute of Archaeology can mold and take photo from any historical and cultural object within the country.

Article 29

Historical and cultural properties that are in the custody of private persons can be entrusted to the researchers of the National Institute

of Archaeology for the purpose of scientific use. The researcher is bound to mention the name of the owner as the main reference in his research.

Article 30

The owner of a registered movable cultural property is obliged to inform the Institute of Archaeology and the National Museum in the case of change of the place of preservation.

Article 31

All persons, legal and real that possess registered movable properties are bound to preserve them according to the instructions of the Institute of Archaeology and the National Museum. In case, damage to the heritage by negligence of the owner, the Institute of Archaeology can repair it scientifically at the cost of the owner. If it is proved that the owner of the heritage is not capable of its preservation, the Institute of Archaeology can buy it at a reasonable price. In the case of disagreement upon the price the Institute of Archaeology has the right to approach the court.

Article 32

Selling registered movable cultural properties is not permitted to foreigners. If a person wants to sell a registered movable property to an Afghan, he is bound to inform the Institute of Archaeology about complete particulars of the buyer. If the Institute of Archaeology refrains from buying the heritage the owner can sell it to a third person.

Article 33

The officers of the Department for the Preservation of Historical and Cultural Heritage and the persons from the Institute of Archaeology do not have the right to buy or sell historical and cultural properties.

Chapter 4 Archaeological Excavations

Article 34

The right of excavation for the discovery of cultural heritage is limited to the Institute of Archaeology. No other government offices, private organizations or private persons have the right to excavate even on their own land without the permit, which is issued for this purpose according to the provisions of this law.

Article 35

The Institute of Archaeology can give a permit after the approval of the Council of Ministers, to local, foreign and international scientific organizations upon their application for a permit for archaeological excavation. This permit is not transferable.

Article 36

1. The organization requesting a permit to excavate should forward the application with the following elements to the Institute of Archaeology:
   1) Object of the excavation and work programmed
   2) Fix the excavation site and its limits
   3) Complete particulars of the head and members of the excavation delegation
2. The head and the members of the excavation delegation can not be changed without the prior agreement.

Article 37

The validity of the permit is for five years; the organization requesting the permit to excavate cannot delay the excavation without prior permission of the Institute of Archaeology, for more than one year. The period of delay is counted in the contract period. If the excavation is delayed due to accidents or due to the work capacity, the extension of the excavation period is contracted on the basis of a new contract, according to the provisions of this law.

Article 38

The excavation council is bound to observe the laws, customs and habits of the country, and the area of their excavation.

Article 39

Settlement of torts and compensation of any damage caused to the land of the person where the excavation is performed is the responsibility of the excavation council.

Article 40

The foreign board of excavation is exempted from paying any kind of customs duties for the importation of goods, scientific and technical instruments, vehicles for their need, provided that after the completion of the work it is either re-exported from Afghanistan or left to the government organizations gratuitously.

Article 41

The right of investigation and supervision of all archaeological excavation is reserved to Institute of Archaeology. Without the presence of the representative, or representatives of the Institute of Archaeology, the contractor organization does not have the right to undertake survey and excavation.

Article 42

Excavation should be performed by the most modern methods of scientific instruments.

Article 43

The excavation board is obliged to present, within six months after the end of each season of excavation, its preliminary report including plans, sketches, photographs, drawings and the contents of the discovered heritage, to the Institute of Archaeology.

Article 44

Information relating to the results of the research and development of the work of one season of excavation can be published written or electronically. The Institute of Archaeology can also publish the report of the board in the name of the excavation board.

Article 45

All cultural properties, which are discovered during survey and excavation, belong to the State of Afghanistan.

Article 46

The protection of the excavation site and transportation of the discovered properties under the contract is the responsibility of the contractor organization. All the discovered movable properties are to be delivered to the Institute of Archaeology before the end of contract. The Institute of Archaeology after studying the discovered properties must deliver them to the National Museum within six months.

Article 47

Temporary exportation of discovered cultural properties for the purpose of research maintenance and restoration in case of lack of scientific instruments and specialized laboratories in the country and for the completion of information and publishing the results, will be allowed upon the request of Archaeology Committee and approval of the Minister of Information and Culture.

Article 48

The excavation board cannot transport discovered cultural properties for temporary research, out of its central office without the permission of the Institute of Archaeology.

Article 49

The right of publication of the results of scientific excavations and surveys is reserved for the board of excavation. The excavation board

is bound to publish its final research within three years. After completion of excavations in the name of Afghanistan's historical and cultural heritage after three years the board will lose the right of monopoly of publishing.

Article 50

The excavation board is bound to officially deliver, 50 copies of all its publications, such as the preliminary report final report, articles and pamphlets [written or electronically] relating to the excavation and research free of cost to the Institute of Archaeology.

Article 51

The terms of revocation of the excavation contract are clearly assigned from both sides in the related contract.

Chapter 5 Museums

Article 52

1. Establishment and administration of museums, for the purpose of preservation and maintenance of historical and cultural properties and for their scientific use is the responsibility of the State.
2. This order in section 1 of this Article should not hinder the seal and legal persons, who possess such properties or collections.

Article 53

In Afghanistan museums are divided into three categories:

1. The National Museum, which is located in the capital of the country.
2. Local Museums, whose number, place and location are fixed by the suggestion of the Institute of Archaeology and the approval of the Minister of Information and Culture.
3. Special Museums are established at the suggestion of the Ministries, desirous organizations and ratification of the Council of Ministers.

Article 54

In the National Museum, all the No. 1 valuable scientific and artistic properties, and all other properties of which there is a unique example available in Afghanistan are conserved and put on display. All the historical and cultural properties, of which there is more than one example available, are kept in local museums where the mentioned properties were discovered. The distribution of the available and discovered properties among different museums of the country is decided by the Archaeological Committee with the participation of the national and local museum officers.

Article 55

Except for the case, mentioned in Article 54 of this law shifting the National Museum or a part of its collections, without excessive need and the ratification of the Council of Ministers from its specific place to another place is prohibited.

Transportation of the properties takes place under the supervision of the Institute of Archaeology, under the best possible conditions to protect them from being stolen, broken, spilled or suffering any other damages and the best conditions are provided for its preservation in the new place.

Article 56

Transfer of a local museum's collections takes place under excessive need on the basis of joint ratification of the local officer, information and Culture Minister's officer and education and training officer by observing the rules of Article 55 of this law.

Chapter 6 Trading of the Objects Similar to the Historical and Cultural Heritages

Article 57

1. No one can engage in trading of similar properties to historical and cultural objects, without obtaining trading permit. Trading permit of section 1 of this article contains the following information.

a. Complete particulars of the applicant
b. Address and location of business
c. Full identification of trader should be kept by the National Museum.

2. The validity of the above mentioned permit is only two years and it is extendable. The transfer of the permit to other person is not allowed.

Article 58

Selling and buying of properties that have a historical and cultural value is permitted according to this law under the condition that they are registered and recorded on the basis of this law.

Article 59

A person who holds a permit for the trading of historical and cultural properties is obliged to offer for a sale the mentioned properties only in the areas mentioned in the license. The holder of the permit can buy heritage from any place in Afghanistan.

Article 60

A trader of cultural properties if bound to:

1. Fix the trade permit in the trading place.
2. To register all dealings sales and purchases of historical and cultural properties in the register book which is given to the tracer at a cost, by the Institute of Archaeology.
3. During an investigation by a representative of the Archaeological Institute (or Museum) the trader should show any historical and cultural properties which he possesses to the investigator for verification.
4. He has to inform the seller about the provisions of this law.

Article 61

In case of violation the Archaeological Committee has the without to cancel the permit of the trader. The trader can approach the court if he is not satisfied.

Article 62

The license for the trade of historical and cultural properties is issued against four thousand Afghani and in case of renewal a rate of one thousand Afghani will be charged for the duplicate.

Article 63

The Institute of Archaeology while registering historical and cultural properties has the authority to purchase, at a reasonable rate, any heritage, which has a scientific value and is in the custody of the merchant. In case of disagreement over the rate, the Institute of Archaeology can approach the court.

Chapter 7 Export and Import of Historical and Cultural Heritage

Article 64

Export of the registered historical and cultural properties by a merchant, or all other persons, is prohibited except in conformity with this law.

Article 65

In the following conditions, the State can send historical and cultural properties abroad:

1. for international exhibitions
2. for scientific research, according to the provisions of this law
3. for maintenance of the property
4. in exchange for historical and cultural properties conserved in foreign museums, upon the approval of the Council of Ministers

Article 66

No historical and cultural property can be sent abroad, unless fully covered by insurance and presence of the representatives of the Archaeological Committee and the National Museum.

Article 67

An object is considered to be exported when the process by which it is to be removed from Afghanistan has commenced even though it has not left the territory of Afghanistan.

Article 68

1. For the return of the historical and cultural heritage a commission should be appointed as follows: Minister of Information as a Head of the Commission, representatives of the Ministry of Justice, Head of Institute of Archaeology and Head of the National Museum as members.
2. The above mentioned Commission has the authority to take decision regarding the return of the stolen and illicitly imported historical and cultural heritage according to the provisions of the chapter two and three of the UNIDROIT Convention.

Article 69

Where an object considered by a state party to the UNESCO Convention on the means of prohibiting and preventing the illicit imports export and transfer of ownership of cultural property to be part of its cultural heritage and whose export is prohibited is exported contrary to the prohibition and is imported into Afghanistan it is prohibited import and liable to forfeiture.

Article 70

Request from return of cultural heritage alleged to have been unlawfully exported from a state party to the UNESCO Convention on the means of prohibiting and preventing the illicit import export and transfer of ownership of cultural property shed be directed to the Ministry of Information and Culture.

The appointed tribunal in the section 1 of Article 68 has the authority to order the seizure of the objects liable to forfeiture through the relevant organs which will be placed under the control of the Ministry of Information and Culture.

Article 71

The historical and cultural properties, which are imported by the State, are exempt from custom duty.

Article 72

Persons, scientific and derivate organizations importing historical and cultural properties, are bound to deposit them along with a detailed inventory with the custom office and receive a receipt. The custom administration sends a copy of the inventory, as soon as possible, to the Institute of Archaeology. The Institute of Archaeology as soon as checks and photographs of the contents and gives customs clearance, after comparing the inventory with the contents.

Article 73

If a foreigner imports his own historical can cultural property to the country he is exempt from paying custom duty, on the condition that the property is re-exported with the foreigner. In case the owner sells the property inside Afghanistan, he is bound to inform the customs administration and the Institute of Archaeology before selling it.

Chapter 8 Penalties

Article 74

Any person, who deliberately destroys or damages a historical and cultural property, in addition to paying compensation, is sentenced to imprisonment, from one month up to ten years.

Article 75

If the persons mentioned in Articles 19 and 26 of the law, omit to inform the related authorities of the discovery of a cultural property within the fixed period, they are sentenced from one month up to three months imprisonment.

Article 76

Whenever, the owner, custodian or protector of historical and cultural properties does not take care of their protection, or when there is a violation to Article 31, and in effect, damage is caused to the property, in addition to compensation, the violator is sentenced to one year up to three years imprisonment.

Article 77

A person, who contrary to Article 66, exports or takes a cultural property out of the country, in addition to seizure of the property, is sentenced to six months up to ten years imprisonment.

Article 78

A person who resorts to stealing, abducting or forging properties from museums or excavation sites, in addition to paying the price of the properties, is sentenced to six months up to ten years imprisonment.

Article 79

For all violations of the rules of this law, the court fixes a proper penalty according to the nature of the crime.

Article 80

Any person who imports the prohibited historical and cultural objects of Afghanistan will be sentenced to the penalty of Article 346 of penalty law.

Chapter 9 Miscellaneous Orders

Article 81

Bilateral contracts and agreements concerning historical and cultural properties, and whose articles are contrary to this law, are with the agreement of the parties put into conformity of the provisions of this law.

Article 82

Fixing and hanging (for exhibition) original historical and cultural properties, belonging to the State, outside the museums, is prohibited, including in palaces and the State authorities.

Article 83

The establishment of the voluntary associations for conservation and preservation of historical and cultural properties can be established after the permit which will be issued by the Ministry of Information and Culture.

Article 84

For the best implementation of this law, the Ministry of Information and Culture can adopt a regulation and put it for further processing.

Article 85

The present law will come into enforcement, after its publication in the Official Gazette. And this law shall abolish the Law on the Preservation of the Historical and Cultural Heritage Published in the official Gazette no. (469) dated 30/09/1359.

ANNEX III

THE MOST RELEVANT INTERNATIONAL LEGAL INSTRUMENTS

A. *Cultural Heritage (UNESCO-related) Instruments*

- The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict
- The First Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict
- The 1999 Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict
- The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property Cultural Objects
- The 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage
- The 1995 Unidroit Convention on Stolen or Illegally Exported Cultural Objects
- The 2001 Convention on the Protection of Underwater Cultural Heritage
- The 2003 Convention for the Safeguarding of the Intangible Cultural Heritage

B. *General Treaties Covering the Law of War and the Law of Warfare (with Cultural Heritage Provisions)*

The four Geneva Conventions of 1949 and their two Additional Protocols of 1977 are the principal instruments of humanitarian law. The first Geneva Convention of 1864 dealt exclusively with care for wounded soldiers; the law was later adapted to cover warfare at sea and prisoners of war. In 1929 and later 1949 the Conventions were revised and expanded. There are now 4 Conventions covering respectively: wounded soldiers on the battlefield (First Convention); wounded and shipwrecked at sea (Second Convention); prisoners of war (Third Convention); and the civilian persons (Fourth Convention).

Of special relevance for this Volume is the Fourth Convention: Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949

In 1977 two Additional Protocols were added:
First Protocol: Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)

Second Protocol: Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)

C. *International Tribunals*

Following the Second World War, two international (military) Tribunals were set up, one for the crimes committed in Europe by Nazi Germany (Nuremberg), the other one for the crimes committed in the Far East (Tokyo).

The idea of submitting individuals to international criminal proceedings came again to the fore in the post-Cold War era. In 1993, the UN Security Council decided to set up the ICTY, the International Criminal Tribunal for the former Yugoslavia (The Hague). A year later, following the genocide/war crimes in Rwanda, the UN Security Council decided to create the ICTR, the International Criminal Tribunal for Rwanda in Arusha/The Hague. Similarly, Tribunals were created and are (in the process of) functioning in Cambodia and Sierra Leone.

Probably even more important was the decision by the international community in 1998 to adopt the Statute of Rome, under which the International Criminal Court (ICC) was created (The Hague). This Court started functioning in 2002 and had its first case in 2006. The ICC deals with individual criminal cases and is different from the International Court of Justice (ICJ, also based in The Hague) that mainly deals with cases between states. The ICC (Rome) Statute pays ample attention to individual responsibility, an issue of the utmost relevance for this Volume: in the articles 25–33 of the Statute the individual responsibility of both the subordinate and the commander have been explicitly laid down.

GENERAL BIBLIOGRAPHY

AA.VV. 1992 *Mostar Urbicide*, Zagreb.

—— 1995a *Protecting Buildings from Bomb Damage. Transfer of Blast-Effects Mitigation Technologies from Military to Civilian Application*, Washington.

—— 1995b *A Report on the Devastation of Cultural, Historical and Natural Heritage of the Republic/Federation of Bosnia and Herzegovina (from April 5, 1992, until September 5, 1995)*, Sarajevo.

—— 1999 *Cyprus. A Civilization Plundered*, Committee for the Protection of the Cultural Heritage of Cyprus, Nicosia.

Akinsha, K. & G. Kozlov 1995 *Beautiful Loot*, New York.

Alam, M. & D. Klimburg-Salter 1999 *Coins, Art and Chronology. Essays on the pre-Islamic History of the Indo-Iranian Borderlands*, Vienna.

Alberge, D. 2002 'Effort to halt sale of Buddhist "Dead Sea scrolls"', *The Times*, June 22.

Alder C. & K. Polk 2005 'The Illicit Traffic in Plundered Antiquities', in *Handbook of Transnational Crime & Justice*, 98–113.

Ali, I. & R. Coningham 2001 'Recording and Preserving Gandhara's Cultural Heritage', in *Trade in Illicit Antiquities: the Destruction of the World's Archaeological Heritage*, N. Brodie, J. Doole & C. Renfrew (eds.), McDonald Institute monographs, Cambridge, 25–31.

Allchin F. R. & N. Hammond (eds.) 1978 *The Archaeology of Afghanistan, from the Earliest Times to the Timurid Period*, London.

Allchin, B. (ed.) 1984 *South Asian Archaeology 1981*, Cambridge.

Allchin, F. R. (et al.) 1997 *Gandharan Art in Context. East-West Exchanges at the Crossroads of Asia,* Cambridge.

Allchin, R. & B. Allchin (eds.) 1983 *South Asian Archaeology 1995*, New Delhi, 1997.

Allen, T. 1983 *Timurid Herat*, Wiesbaden.

Anker, L. 2002a 'Martin Schøyen om samlingen', *Museumsnytt* 51, 1, 29.

—— 2002b 'Norge smutthull for afghansk kulturskatt?', *Museumsnytt* 51, 1, 28–31.

Anon. 1874a 'The Buddhist ruins of Jamâl Garhi' (abridged from a report on their exploration during the months March and April 1873, by the 8th Company Sappers and Miners, under the command of Lieutenant Arthur Crompton, R. E.), *The Indian Antiquary* 3, 142–144.

—— 1874b 'Dr. Leitner's Buddhistic sculptures', *The Indian Antiquary* 3, 158–160.

Asia, The Asia Society, New York, July/August 1981.

Askerud, P. & E. Clement 1997 *Preventing the Illicit Traffic in Cultural Property. A Resource Handbook for the Implementation of the 1970 UNESCO Convention*, Paris.

Atkinson, J. 1842 *The Expedition into Afghanistan*, London.

Atwood, R. 2004 *Stealing History. Tomb Raiders, Smugglers and the Looting of the Ancient World*, New York.

Auboyer J. 1968 *Afghanistan et son art*, Prague.

Bailey, M. 2004a 'Buddhism's "Dead Sea Scrolls" for sale to Norway. Saved from Afghanistan by top collector, the manuscripts pose an ethical problem', *The Art Newspaper*, September 2004 (available on http://www.theartnewspaper.com/news/article.asp?idart=9912, accessed September 18, 2005).

—— 2004b 'British Library accused of buying smuggled scrolls. The Afghan Minister of Culture says Hadda Museum looted', *The Art Newspaper*, November 2004.

Baker, P. H. B. & F. R. Allchin 1991 *Shahr-i Zohak and the History of the Bamiyan Valley, Afghanistan*, Oxford.

Ball, W. & L. Harrow 2002 *Cairo to Kabul. Afghan and Islamic Studies presented to Ralph Pinder-Wilson,* London.
Ball, W., G. K. Rao & A. W. McNicoll 1990 'The Minar-i Chakari. Report on the Society's Preservation Work', *South Asian Studies* 6, 229–240.
Ball, W. (with the collaboration of J.-C. Gardin) 1982a *Archaeological Gazetteer of Afghanistan*, 2 vols., Paris.
Ball, W. 1982a *Archaeological Gazetteer of Afghanistan*, 2 vols, Paris.
—— 1982b 'Project for an Archaeological Gazetteer of Afghanistan', *Afghan Studies* 3 & 4, 89–93.
—— 1997 'Revue of: A Catalogue of the Gandhara Sculpture in the British Museum' by W. Zwalf, *Journal of the Royal Asiatic Society* 7, 3, 462–465.
—— 2004 *Monuments of Afghanistan. An Architectural, Archaeological and Historical Guide*, London & Paris.
Bazin, G. 1991 *Souvenir de l'Exode du Louvre 1940–1945*, Paris.
Behrendt, K. A. 2004 *The Buddhist Architecture of Gandhara*, Leiden [etc.] (Handbook of Oriental Studies/Handbuch der Orientalistik 2/17).
Benisti, M. 1977 'À propos du triratna', *Bulletin de l'École Française d'Extrême-Orient* 51, 43–81.
Benveniste, E. 1969 *Le Vocabulare des Institutions Indo-Europeennes*, Paris.
Bernard, P. 1985 'Fouilles d'Aï Khanoum IV. Les monnaies hors trésors. Questions d'histoire gréco-bactrienne', *MDAFA* XXVIII, Paris.
—— 2002 *l'Oeuvre de la Délégation Archéologique Française en Afghanistan (1922–1982)*, extrait des Comptes rendus de l'Académie des Inscriptions et Belles-Lettres, fasc. 4, Nov.–Déc. 2002, available on http://www.aibl.fr/fr/seance/discours/disc_bernard.html, accessed December 5, 2005.
Beurden, van J. 2003 'Preserving Ethiopia's cultural heritage', in *The Courier, the magazine of the ACP-EU Development Cooperation*, 197, March–April.
—— 2005a *Partnerships in Cultural Heritage. The International Projects of the KIT Tropenmuseum in Amsterdam*, Amsterdam.
—— 2005b *The Role of the Diplomatic Bag. Some facts we have*, September 2005 (Unpublished).
Bjørhovde, H. 2000 'Nordmann eier unik historisk skatt. Vil du prøve Tut-ankh-Amons ring?', *Aftenposten*, October 23, 2000 (interview with Schøyen, available on http://tux1.aftenposten.no/kul_und/kultur/d169785.htm, accessed September 18, 2005).
Bleaney, C. H. & M. A. Gallego (compiled by) 2006 *Afghanistan. A Bibliography*, Leiden, Boston.
Bloch, T. 1900 *A List of the Photographic Negatives of Indian Antiquities in the Collection of the Indian Museum. With which is incorporated the list of similar negatives in the possession of the India Office*, Calcutta.
Bloch, H. 1979 *The Bombardment of Monte Cassino (February 14–16, 1944). A new appraisal*, Grottaferrata.
Boardman, J. 1994 *The Diffusion of Classical Art in Antiquity*. London.
Bombaci, A. 1959 *Introductions to the Excavations at Ghazni*, Historical Society of Afghanistan, Kabul.
Bopearachchi, O. & A. ur Rahman 1995 *Pre-Kushana Coins in Pakistan*, Karachi.
Bopearachchi, O. & P. Flandrin 2005 *Le Portrait d'Alexandre le Grand. Histoire d'une découverte pour l'humanité*, Monaco.
Bopearachchi, O. & M.-F. Boussac (eds.) 2005 *Afghanistan. Ancien Carrefour entre l'Est et l'Ouest*, Turnhout Belgium.
Bopearachchi, O. 1990 *Monnaies Gréco-bactriennes et Indo-greques. Catalogue raisonné*, Paris.
____1999 'Afghanistan 1993 le dépôt de Mir Zakah. Le plus grand trésor du monde, son destin et son intérêt', *Dossiers de l'archéologie* 248, 36–43.
Bourguignon, A. & J. E. Choppin 1994 *L'Art Volé. Enquête sur le vole et le trafic d'objets d'art,* Paris.

Bowersox, G. W. 1995 *Gemstones of Afghanistan*, Tucson, Arizona.
Boylan, P. J. 1993 *Review of the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague Convention of 1954)*, UNESCO, Paris, Report ref. CLT-93/WS/12.
—— 1995 'Illicit Trafficking in Antiquities and Museums Ethics', in *Antiquities. Trade or Betrayed. Legal, ethical and conservation issues*, K. Walker Tubb (ed.), Archetype, London, 94–104.
—— 2002 'The 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and its 1954 and 1999 Protocols', in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.), collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 41–52.
Braarvig, J. (ed.) 2000 *Buddhist Manuscripts I.* Manuscripts in the Schøyen Collection I., Oslo.
—— 2002a *Buddhist Manuscripts II.* Manuscripts in the Schøyen Collection III, Oslo.
—— 2002b 'Buddhist Manuscripts in the Schøyen Collection', in *CAS Oslo 1992–2002. Advanced Study in a Norwegian Context*, Oslo (available on http://www.cas.uio.no/Publications/Jubilee/Buddhist_Manuscripts.pdf, accessed September 18, 2005), 57–62.
—— 2004 'The case of ancient Buddhist manuscripts from Afghanistan', in *Not for Sale. A Swiss-British conference on the traffic in artefacts from Iraq, Afghanistan and beyond*, M. Kimmich (ed.), Geneva, 35–38.
Breucker, J. de 1974 *La Déclaration de Bruxelles de 1874 concernant les Lois et les Coutumes de la Guerre*, Bruxelles.
Brodie, N., J. Doole & P. Watson 2000 *Stealing history. The illicit trade in cultural material*, Cambridge.
Brodie, N. & D. Gill 2003 'Looting. An International View', in *Ethical Issues in Archaeology*, L. J. Zimmerman, K. D. Vitelli & J. Hollowell-Zimmer (eds.), AltaMira, Walnut Creek, 31–44
Brodie, N. J., Kersel, M., Luke, C. & K. W. Tubb (eds.) (in press) *Archaeology, Cultural Heritage, and the Trade in Antiquities*, Gainesville, Florida.
Brodie, N. & K. Tubb (ed.) 2002 *Illicit Antiquities*, London & New York.
Brodie, N. 2002 'Introduction', in *Illicit Antiquities. The theft of culture and the extinction of archaeology*, N. Brodie & K. Walker Tubb (eds.), One World Archaeology 42, London, 1–22.
Bucherer-Dietschi, P. 2002 'Protection and Restitution of Afghan Cultural Heritage', in *Bamiyan. Challenge to World Heritage*, K. Warikoo (ed.), New Delhi, 156–163.
Burgess, J. 1897 *The Ancient Monuments, Temples and Sculptures of India. Illustrated in a series of reproductions and photographs in the India Office, Calcutta Museum and other collections*, London.
Cambon, P. (et al.) 2002 *Afghanistan, une histoire millénaire*, Catalogue d'exposition, Paris.
Carcione, M. 1999 'Il Simbolo di Protezione del Patrimonio Culturale. Una lacuna del Protocollo del 1999', in *Uno Scudo Blu. Per la salvaguardia del patrimonio mondiale. Atti del III Convegno Internazionale sulla Protezione dei Beni Culturali nei conflitti armati (Padova, 19–20 marzo 1999)*, M. Carcione (ed.) Milano, 121–130.
Casal, J.-M. 1961 *Fouilles de Mundigak*, 2 vols., Paris, Mémoires de la Délégation Archéologiques Française en Afghanistan.
Cassese A., P. Gaeta & J. R. W. D. Jones 2002 *The Rome Statute of the International Criminal Court. A Commentary*, Oxford.
Chakrabarti, D. K. 1988 *A History of Indian Archaeology. From the beginning to 1947*, New Delhi.
Chippindale, C. & D. W. J. Gill 2001 'On-line auctions. A new venue for the antiquities market', *Culture Without Context*, 9, Autumn.
Claude, J. 1999 *Angkor*, Cologne.
Clément E. 1994 'Some Recent Practical Experience in the Implementation of the 1954 Hague Convention', *International Journal of Cultural Property*, 3, 1, 11–25.

—— 1996 'UNESCO. Some specific cases of recovery of cultural property after an armed conflict', in *Legal Aspects of International Trade in Art*, M. Briat & J. A. Freedberg (eds.), International Sales of Works of Art 5, The Hague, 157–162.

Cole, H. H. 1884–1885 *Preservation of National Monuments, India. Graeco-Buddhist sculptures from Yusufzai*, Paris.

Conforti, R. & F. Maniscalco 2002 'La tutela dei beni culturali mobili in Italia: il problema dei furti d'arte', in *La Tutela dei beni Culturali in Italia*, F. Maniscalco (ed.), Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", 1, Napoli, 121–133.

Coon, C. S. 1957 *Seven Caves*, New York.

Cunningham, A. 1875 *Report for the Year 1872–1873*, in particular: Appendix B. List of sculptures from Yusufzai, 197–202, Calcutta (Archaeological Survey of India Report 5).

Dales, G. F. 1972 'Prehistoric Research in Southern Afghan Seistan', *Afghanistan* 24, 4, 14–40.

Davis, R. S. 1969–70 'Prehistoric Investigation in Northern Afghanistan', *Afghanistan* 22, 3–4, 75–90.

—— 1974 *The Late Palaeolithic of Northern Afghanistan*, Ann Arbor.

Davis, R. & L. Dupree 1977 'Prehistoric Survey in Central Afghanistan', *Journal of Field Archaeology* 4, 2, 139–148.

Demosthenous, D. (ed.) 2000 *The Occupied Churches of Cyprus*, Nicosia.

—— 2002 'Evidence on the extent of the destruction resulting from the consequences of the 1974 Turkish invasion', in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.), Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 205–206.

Department for Culture, Media and Sport, Cultural Property Unit, *Dealing in Tainted Cultural Object*. Guidance on the Dealing in Cultural Objects (Offences) Act 2003, London, January 2004.

Dollot, R. 1937 *L'Afghanistan*, Paris.

Dumezil, G. 1947 *Tarpeia*, Paris.

Dupree, L. 1958 *Shamshir Ghar. Historic Cave Site in Kandahar Province, Afghanistan*, Anthropological Papers of the American Museum of Natural History, 46, 2, New York.

—— 1963 *Deh Morasi Ghundai. A Chalcholithic Site in South Central Afghanistan*, Anthropological Papers of the American Museum of Natural History, 50, 2, New York.

—— 1968 'The Oldest Sculptured Head?', *Natural History* 77, 5, 26.

—— 1972 'Prehistoric Research in Afghanistan (1959–1966)', *Transactions of the American Philosophical Society*, 62, 4, Philadelphia.

—— 1973 *Afghanistan*, Princeton.

—— 1976 'Results of a Survey for Palaeolithic Sites in the Dasht-i-Nawur', *Afghanistan* 29, 2, 55–63.

—— 1973 (revised 1978 and 1980) *Afghanistan*, Princeton.

Dupree, N. Hatch 1972 *An Historical Guide to Kabul*, Kabul.

—— 1974 'Archaeology and the Arts in the Creation of a National Consciousness', in *Afghanistan in the 1970s*, L. Albert & L. Dupree (ed.), New York.

—— 1977 *An Historical Guide to Afghanistan*, second edition, Kabul.

—— 1996 'Museum Under Siege', *Archaeology* 49, 42–51.

—— 1997–1998 'Bamiyan Buddhas Endangered', *Indoro-koko-kenkyu* [Indian Archaeological Studies], Rikkyo University, 19, 114–119.

—— 1998a 'Status of Afghanistan's Cultural Heritage', *SPACH Library Series*, 1, Peshawar.

—— 1998b 'Cultural Heritage of Afghanistan in crisis', *Journal of Asian Civilizations*, Islamabad, 21, 2, 33–51.

—— 2002 *Assaults on the Afghan Cultural Heritage*, in *La Tutela del Patrimonio Culturale*

in Caso di Conflitto, F. Maniscalco (ed.), Collana monografica 'Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali', Vol. 2, Napoli, 291–302.
Dupree, N. Hatch, L. Dupree & A. A. Motamedi 1974 *The National Museum of Afghanistan. An Illustrated Guide*, Kabul.
EAA 1997 *Code of Practice*. The European Association of Archaeologists (available on http://www.e-a-a.org/codeprac.htm, accessed September 18, 2005).
Errington, E. 1987 *The Western Discovery of the Art of Gandhara and the Finds of Jamalgarhi*, PhD thesis, London University.
—— 1990 'Towards clearer attributions of site provenance for some 19th century collections of Gandhara sculpture', in *South Asian Archaeology 1987*, M. Taddei & P. Callieri (eds.) 765–781, Rome (Serie Orientale Roma 66/2).
—— 1991 'Addenda to Ingholt's Gandharan art in Pakistan', *Pakistan Archaeology* 26, 48–70.
—— 1997 'The 1878 Florence exhibition of Gandharan sculpture', in *Angelo de Gubernatis. Europe e Oriente nell' Italia umbertina*, M. Taddei, 139–214, Rome, Collane "Matteo Ripa" XIII.
—— 2000 'Numismatic evidence for dating the Buddhist remains of Gandhara', in *Papers in Honour of Francine Tissot*, E. Errington & O. Bopearachchi (eds.) 191–216, Kamakura (Silk Road Art and Archaeology 6).
—— 2004 'Masson, Charles', *Encyclopaedia Iranica*, New York (available on www.iranica.com).
Errington, E. & J. Cribb with M. Claringbull (eds.) 1992 *The Crossroads of Asia. Transformation in Image and Symbol in the Art of Ancient Afghanistan and Pakistan*, Cambridge.
Fairservis, W. A. 1950 'Archaeological research in Afghanistan', *Transactions of the New York Academy of Science series* 2, 12,5, 172–174.
Fales, F. M. 2004 *Saccheggio in Mesopotamia. Il Museo di Baghdad dalla nascita dell'Iraq a oggi*, Udine.
Feitsma, J. 1994 'Opnieuw Afghanistan, van koude tot burgeroorlog', *Internationale Spectator* 48/11, 549–553.
Flandrin, P. 2001 *Le Trésor Perdu des Rois d'Afghanistan. Balades Barbares*, Monaco.
Foucher, A. 1899 'Sur la frontière indo-afghane. Extraits du journal de route d'un archéologue', *Le Tour du Monde. Journal des Voyages et des Voyageurs*, n.s. 5, 469–504, 541–564.
—— 1900 'Op de Indo-Afghaanse grens. Uit het reisjournaal van een archeoloog', *De Aarde en haar Volken*, 361–384.
—— 1905–1951 *L'art gréco-bouddhique du Gandhâra. Étude sur les origines de l'influence classique dans l'art bouddhique de l'Inde et de l'Extrême-orient*, 2 vols. Paris (Publications de l'École Française d'Extrême-Orient 5–6).
—— 1923 'Rapport A. Foucher.', *Journal Asiatique*, April–June, 354–368.
—— 1942–1947 'La vieille route de l'Inde de Bactres à Taxila', *MDAFA* I, 2 vols., Paris.
Francfort, H.-P. 1984 'Fouilles d'Aï Khanoum III. Le sanctuaire du temple à niches indentées', *MDAFA* XXVII, Paris.
—— 1989 *Fouilles de Shortughaï. Recherches sur l'Asie centrale protohistorique*, 2 vols., Paris.
Francfort, H.-P. & M.-H. Pottier 1978 'Sondage preliminaire sur l'establissement protohistorique harappeen et post-harappeen de Shortugai', *Arts Asiatiques* 34, 29–79.
Francioni, F. & F. Lenzerini 2003 'The Destruction of the Buddhas of Bamiyan and International Law', *The European Journal of International Law*, 14, 619–652.
—— 2005 'The Obligation to Prevent and Avoid Destruction of Cultural Heritage. From Bamiyan to Iraq', in *Art and Cultural Heritage. Law, Policy and Practice*, B. T. Hoffman (ed.), Cambridge.
Francioni, F. 1995 'Patrimonio culturale, sovranità degli Stati e conflitti armati', in *Beni culturali di interesse religioso*, G. Feliciani (ed.), Bologna.

Frifelt, K. & P. Sorenson (eds.) 1989 *South Asian Archaeology 1985*, Honolulu.

Fussman, G. & O. Guillaume 1990 'Surkh Kotal en Bactriane, II. Les monnaies. Les Petits objets', *MDAFA* XXXII, Paris.

Fussman, G. 1987 'Numismatic and epigraphic evidence for the chronology of early Gandharan art', in *Investigating Indian Art. Proceedings of a symposium on the development of early Buddhist and Hindu iconography held at the Museum of Indian Art Berlin in May 1986*, M. Yaldiz & W. Lobo (eds.) Berlin, 67–88.

Gaensheimer, S. (ed.) 2004 *Maria Eichhorn Restitutionspolitik, Politics of Restitution*, Köln.

Gail, A. J. (ed.) 1998 *South Asian Archaeology 1991*, Berlin.

Gardin, J. C. 1957 'Poteries de Bamiyan', *Ars Orientalis* 2, 227–45.

—— 1998 *Prospections Archéologiques en Bactriane Orientale (1974–1978) 3, Description des sites et notes de synthèse*, Paris.

Garrick, H. B. W. 1885 *Report of a Tour through Behar, Central India, Peshawar, and Yusufzai 1881–82*, Calcutta (Archaeological Survey of India Report 19).

Gentelle, P. 1989 *Prospections Archéologiques en Bactriane Orientale (1974–1978) 1, Données paléogéographiques et fondements de l'irrigation*, Paris.

Gershevitch, I. (transl.) 1967 *The Avestan Hymn to Mithra*, Cambridge.

Ghaidan U. & N. Al-Dabbagh 2004/2005 'Iraq: State of Ecology and Built Heritage after Four Decades of Adversity', in *Heritage at Risk*, ICOMOS.

Ghirshman, R. 1939 'Fouilles de Nadi-Ali dans Seistan Afghan', *Arts Asiatiques*, 13, 1, 10–22.

Gill, D. 2004 'Colombia, Illicit antiquities and the ICOM Red List Latin America', in *Culture without Context*, Spring.

Gioia A. 2000 'La protezione dei beni culturali nei conflitti armati', in *Protezione internazionale del patrimonio cultural. Interessi nazionali e difesa del patrimonio comune della cultura*, F. Francioni, A. Del Vecchio & P. De Caterini (eds.), Milano.

Göbl, R. 1984 *System und Chronologie der Münzprägung des Kušanreiche*, Wien.

Godard, A., Godard Y. & J. Hackin 1928 'Les antiquités bouddhiques de Bamiyan', *MDAFA* II, Paris, Brussels.

Grenet, F., J. Lee, P. Mortinez & F. Ory (forthcoming) 'The Sasanian relief at Rag-i Bibi (Northern Afghanistan)', in *After Alexander. Central Asia before Islam.* London.

Grenet F. 1994 'Bamiyan and the Mihr Yasht', *Bulletin of the Asia Institut*, 7.

—— 1998 *Cultes et Monuments Religieux dans l'Asie Centrale Préislamique*, Paris.

Gruen A., F, Remondino & L. Zhang 2002 'The Reconstruction of the Great Buddha of Bamiyan, Afghanistan', ICOMOS International Symposium, Madrid, December 2002 (available on http://www.photogrammetry.ethz.ch/general/persons/fabio/icomos.pdf).

Guha-Thakurta, T. 2004 *Monuments, Objects, Histories. Institutions of art in colonial and postcolonial India*, Delhi.

Guillaume, O. & A. Rougeulle 1987 'Fouilles d'Aï Khanoum VII. Les petits objets', *MDAFA* XXXI, Paris.

Guillaume, O. 1983 'Fouilles d'Aï Khanoum II. Les propylées de la rue principale', *MDAFA* XXVI, Paris.

Haase, G. 2002 *Die Kunstsammlung Adolf Hitler*, Berlin.

Hackin, J. & J. Carl 1933 'Nouvelles recherches archéologiques à Bamiyan', *MDAFA* III, Paris.

Hackin, J., Carl J. & J. Meunie 1959 'Diverses recherches archéologiques en Afghanistan (1933–1940)', *MDAFA* VIII, Paris.

Hague Convention 1954–1999 *Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 14 May 1954) and Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 26 March 1999)*. Text in English the UNESCO web page www.unesco.org/culture/legalprotection/war/html_eng/index_en.shtml.

Hammond, N. 1990 'An archaeological reconnaissance in the Helmand Valley, South Afghanistan', *East and West* 20, 437–459.

—— 2001 'Cultural Terrorism', *The Wall Street Journal*, March 5, 2001, (available on http://hss.fullerton.edu/comparative/wsj_bamian.htm).
Härtel, H. (ed.) 1981 *South Asian Archaeology 1979*, Berlin.
Haugland, V. S. 2004 'Question in the Norwegian Parliament to the Minister of Culture, Valgerd Svarstad Haugland, on the cooperation between the Norwegian National Library and The Schøyen Collection', *Stortinget*, December 1, 2004 (available on http://www.stortinget.no/spti/dw-o2004120107–005.html, accessed September 18, 2005).
Hayez, F. 1874 *Actes de la Conférence de Bruxelles*, Bruxelles.
Helms, S. W. 1997 *Excavations at Old Kandahar 1976–1978*, Oxford.
Herberg, W. 1976 'Topographische Feldarbeiten in Ghor. Bericht über Forschungsarbeiten zum Problem Jam-Ferozkoh', *Afghanistan Journal* 3, 2, 57–69.
Herstad, J. 2002 'Afghansk kulturarv og norsk kulturimperalisme', *Museumsnytt* 51, 2, 12.
Higuchi, T. 1983 *Bamiyan: Art and Archaeological Research in the Buddhist Cave Temple in Afghanistan 1970–1978*, (in Japanese), Kyoto.
—— (ed.) 1984 *Bamiyan*, 4 vols (in Japanese), Kyoto.
Hillenbrand, R. 1994 *Islamic Architecture*, Edinburgh.
Hollowell-Zimmer, J. 2003 'Digging in the Dirt—Ethics and "Low-End Looting"', in *Ethical Issues in Archaeology*, L. J. Zimmerman, K. D. Vitelli & J. Hollowell-Zimmer (eds.), AltaMira, Walnut Creek, 45–56.
Holt, F. L. 1999 *Thundering Zeus. The Making of Hellenistic Bactria*, Berkeley.
Hopkirk, P. 1985 *Foreign devils on the Silk Road*, London.
Hui Chao 726–727 "Wang Wu Tianzhuguo Zhuan", '*Memoir of a Pilgrimage to the Five Regions of India*'.
Hunt, T. 2005 'How Britain helps China destroy Tibet', *The Observer*. September 11.
ICOM 1997a *Looting in Angkor*, Paris.
—— 1997b *Looting in Africa*, updated reprint, Paris.
—— 1997c *Looting in Latin America*, Paris.
—— 2000 *One Hundred Missing Objects. Looting in Europe*, Paris.
—— 2001/1986 *Code of Ethics for Museums*, Paris.
—— 2003 *Emergency Red List of Iraqi Antiquities at Risk*, Paris.
—— 2004 *Code of Ethics for Museums*, Paris.
IPCM 1994 *Sarajevo, Destruction & War Damages of Cultural-Historical Heritage in Old Market Place in Sarajevo-Bascarsija*, Sarajevo.
Jarrige, C. (ed.) 1992 *South Asian Archaeology 1989*, Paris.
Joshi, M. C. 1991 'Dharma-cakra pravartana mudra in Gandhara art', *Pakistan Archaeology* 26, 71–75.
Juzjani 1881 'Uthman ibn Siraj al-Din. *Tabakat-i-Nasiri. A General History of the Muhammadan Dynasties of Asia, including Hindustan, from A.H. 194 [810 A.D.], to A.H. 658 [1260 A.D.], and the Irruption of the Infidel Mughals into Islam*, translated by H. G. Raverty, London.
Kibar, O. 2003 'Sier nei til muslimske milioner', *Dagens Næringsliv*, March 29/30, 2003 (interview with Schøyen).
Kirkpatrick, S. D. 1992 *Lords of Sipan. A true story of Pre-Inca tombs, archaeology and crime*, New York.
Klimburg-Salter, D. E. 1989 *The Kingdom of Bamiyan. Buddhist Art and Architecture of the Hindu Kush*, Naples, Rome.
—— 1995 *Buddha in Indien. Die frühindische Skulptur von König Aśoka bis zur Guptazeit*, Wien.
Knobloch, E. 2002 *The Archaeology and Architecture of Afghanistan*, Stroud UK.
Kohl, P. L. 1984 *Central Asia. Palaeolithic Beginnings to the Iron Age*, Paris.
Kruglikova, I. T. 1986 *Dilberdzhin*, Moscow.
Kubin, E. 1989 *Sonderauftrag Linz*, Wien.
Kurita, I. 1988 *Gandharan Art, 1, The Buddha's life story*, Tokyo (Ancient Buddhist Art Series).

Kuwayama, S. 1987 'The Buddha's bowl in Gandhara and relevant problems', in *South Asian Archaeology 1987*, M. Taddei & P. Callieri (eds.) 945–978, Rome (Serie Orientale Roma 66/2).
Lafont, M. 2004 *Pillaging Cambodia. The Illicit Trade in Khmer Art,* Jefferson, North Carolina, & London.
Lavachery, H. A. & A. Noblecourt 1954 *Les techniques de protection des biens culturels en cas de conflit armé*, Paris.
Lawler, A. 2002 'Afghanistan's Challenge', *Science* 8, 1195–1204.
Lawrence, L. 2004 'The other half of Indian art history. A study of photographic representations in orientalist and nationalist texts', *Visual Resources* 20, 4, 287–314.
Le Berre, M. 1987 'Monuments pré-islamiques de l'Hindukush central', *MDAFA* XXIV, Paris.
Lee, D. 2000 'History and art are being wiped out', *The Art Newspaper*, March.
Lee, J. L. & F. Grenet 1998 'New Light on the Sasanid Painting at Ghulbiyan, Faryab Province, Afghanistan', *South Asian Studies* 14, 75–85.
Leriche, P. 1986 'Fouilles d'Aï Khanoum V. Les remparts et les monuments associés', *MDAFA* XXIX, Paris.
Leslie J. & C. Johnson 2004 *Afghanistan. The Mirage of Peace*, London, New York.
Lévi, S. 1932 'Note sur des manuscrits sanscrits provenant de Bamiyan (Afghanistan), et de Gilgit (Cachemire)', *Journal Asiatique* (janvier-mars), 1–45.
Lévi-Strauss, L. 2002 'The action of UNESCO in Bosnia and Herzegovina to restore respect and mutual understanding among local communities through the preservation of cultural heritage', in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.) Collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 143–148.
Lohuizen-de Leeuw, J. E. van 1949 *The "Scythian" Period. An approach to the history, art, epigraphy and palaeography of North India from the 1st century B.C. to the 3rd century A.D.* PhD thesis, Rijksuniversiteit Utrecht, Leiden.
Lundén, S. 2004 'The Scholar and the Market. Swedish scholarly contributions to the destruction of the world´s archaeological heritage', in *Swedish Archaeologists on Ethics*, H. Karlsson (ed.), Lindome, 197–247.
Lynch, M. & Cap Gemini 2005 *World Wealth Report 2005*. New York.
Lyonnet, B. 1997 *Prospections Archéologiques en Bactriane Orientale (1974–1978), 2, Céramique et peuplement du chalcolithique à la conquête arabe*, Paris.
Maeda, K. 2002 *Bamiyan Buddhist Site of Afghanistan*, Tokyo.
Maniscalco, F. 1998 *Article 7 of the Hague Convention 1954. Survey of Cultural Property in Sarajevo*, Supreme Headquarters Allied Powers Europe, Shapex '98, Shape (Mons).
—— 1999 *Ius Praedae. La tutela dei beni culturali in guerra* [*Ius Praedae. The Protection of cultural patrimony in war*], Napoli.
—— 2001 'Afghanistan e qualche riflessione', in *Archeologia Viva*, 87, magg.-giu., 8.
—— 2002 (ed.), *La Tutela del Patrimonio Culturale in Caso di Conflitto*, collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli.
—— (forthcoming) *Guidelines for the Safeguarding of Cultural Property in the Event of Armed Conflict*.
Maricq, A. & G. Wiet 1959 *Le Minaret de Djam. La Découverte de la Capitale des Sultans Ghorides (XII*e*–XIII*e* siècles)*, Paris.
Masson, C. 1841 *Narrative of Various Journeys in Balochistan, Afghanistan, and the Panjab Including a Residence in Those Countries from 1826 to 1838*, London.
—— 1998 'Memoir on the topes and sepulchral monuments of Afghanistan', in *Ariana Antiqua. A descriptive account of the antiquities and coins of Afghanistan with a memoir on the buildings called topes, by C. Masson, esq*., H. H. Wilson, 55–118, reprint (London, 1841) New Delhi.
Matsuda, D. 1998 'The Ethics of Archaeology, Subsistence Digging, and Artifact

Looting in Latin America. Point, Muted Counterpoint', *International Journal of Cultural Property* 1, 7, 87–97.
Matsuda, K. 2000 'New Sanskrit Fragments of the Saddharmapu.n.dariikasuutra in the Schoyen Collection, Norway', *The Journal of Oriental Studies* 10 (available on http://ccbs.ntu.edu.tw/FULLTEXT/JR-JOS/jos94088.htm, accessed September 18, 2005), 97–108.
Maucuer, M. 2005 'From Cernuschi's museum to the Cernuschi Museum', *Orientations* 36, 6, 22–29.
McIntosh, R., T. Togola & S. Keech McIntosh, 1995 'The Good Collector and the Premise of Mutual Respect among Nations', *African Arts* (autumn), 60–69.
McIntosh, S. Keech, C. Renfrew & S. Vincent 2000 '"The Good Collector". Fabulous beasts or endangered species?', *Public Archaeology* 1, 73–81.
McKinnon, M. & P. Vine 1991 *Tides of War*, London.
McNicoll, A. W. & W. Ball 1996 *Excavations at Kandahar 1974 and 1975*, Oxford.
Melikian-Chirvani, A. S. 1976 *The National Museum Catalogue of Islamic Metalwork*, UNESCO Report, Paris.
Mémoires de la Délégation Archéologiques Française en Afghanistan (DAFA), Vols. I–XXXII, Paris, 1942–90.
Merryman, J. H. 1986 'Two ways of thinking about cultural property', *The American Journal of International Law* 80, 831–853.
—— 1996 'A licit international trade in cultural objects', in *Legal Aspects of International Trade in Art*, M. Briat & J. A. Freedberg (eds.), International Sales of Works of Art 5, The Hague, 3–45.
—— 2000 *Thinking about the Elgin Marbles. Critical Essays on Cultural Property, Art and Law*, London.
Miyaji, A. 2003 *The Iconographical Program of the Murals in the Ceiling of Bamiyan Caves*, Nagoya University.
Motamedi, A. A. 1975 'Prehistoric Afghanistan', *Afghanistan* 28, 85–93.
—— 'Bronze Age sites in North-East Afghanistan', *Afghanistan* 32, 3, 1979, 49–55.
Nahlik, S. E. 1967 'La protection internationale des biens culturels en cas de conflit armé', *Recueil des Cours de l'Académie de Droit International*, 120, 2, 61–163.
—— 1974 'On some deficiencies of The Hague Convention of 1954 on the protection of cultural property in the event of armed conflict', *Annuaire de l'Association des Anciens de l'Académie*, 44, 100–108.
—— 1980 'Le Cas des Collections polonaises au Canada. Considérations juridiques', (1959–60), "The Case of the Displaced Art Treasures" *German Yearbook of International* Law, 23.
—— 1986 'Protection des biens culturels', Les *Dimensions Internationales du Droit Humanitaire*, AA. VV Paris.
Najami, A. W. *Herat. The Islamic City. A Study in Urban Conservation*. London.
Noblecourt, A. 1958 *Protection of Cultural Property in the Event of Armed Conflicts*, Paris.
NRK 2004 'Skriftsamleren', *NRK1 Brennpunkt*, September 7 and 14, 2004 (TV documentary on The Schøyen Collection).
O'Keefe, P. J. 2000a *Commentary on the UNESCO 1970 Convention on Illicit Traffic*, London.
—— 2000b *Trade in Antiquities. Reducing destruction and theft*, UNESCO, London & Paris.
Olivier-Utard, F. 2003 *Politique et archéologie. Histoire de la Délégation archéologique française en Afghanistan (1922–1982)*, Paris, 1997.
Omland, A. & C. Prescott 2002a 'Afghanistan's cultural heritage in Norwegian museums?', *Culture Without Context* 11 (Available on http://www.mcdonald.cam.ac.uk/IARC/cwoc/issue11/afghanscrolls.htm, accessed September 18, 2005), 4–7.
—— 2002b 'Afghansk kulturarv. fortsatt i norsk eie?', *Aftenposten*, January 17, 2002 (comment article, available on http://www.aftenposten.no/meninger/kronikker/article 259191.ece, accessed September 18, 2005).

—— 2003a 'Afghanistan krever kulturskattene tilbake', *Levende Historie* (October, Internet edition only, http://www.levendehistorie.no/lh/article.cgi?id=126, accessed November 1, 2004, not available September 18, 2005).
—— 2003b 'Arkeologi og krig. Buddhismens dødehavsruller setter Norge på prøve', *Levende Historie* 5, 42–47.
—— 2004 'Schøyen og kulturkriminalitet', *Dagbladet*, September 9, 2004 (comment article, available on http://www.dagbladet.no/kultur/2004/09/09/407793.html, accessed September 18, 2005).
Omland, A. 1998 *UNESCOs Verdensarv-konvensjon og forståelsen av en felles verdensarv*. Unpublished Cand.philol thesis in archaeology, University of Oslo (available on http://folk.uio.no/atleom/hovedoppg/innhold.htm, accessed September 18, 2005).
—— 2002–2005 *Buddhist Manuscripts from Afghanistan in The Schøyen Collection*, Internet page (available on http://folk.uio.no/atleom/manuscripts.htm, accessed September 18, 2005).
—— (in press) 'The ethics of the World Heritage concept', in *The Ethics of Archaeology. Philosophical Perspectives on the Practice of Archaeology*. C. Scarre & G. Scarre (eds.), Cambridge.
Panella, C. 2002 *Les Terres Cuites de la Discorde. Deterrement et Ecoulement des Terres Cuites Anthropomorphes de Mali. Les Reseaux Locaux*, Leiden.
Panzera, A. F. 1993 *La tutela internazionale dei beni culturali in tempo di guerra*, Torino.
Perrot, P. N. 1997 'Museum ethics and collecting principles', in *Museum Ethics*, G. Edson (ed.), London, 189–195.
Possehl, G. L. (ed.) 1993 *South Asian Archaeology Studies*, Oxford.
Prescott, C. & A. Omland 2003 'The Schøyen Collection in Norway. Demand for the return of objects and questions about Iraq', *Culture Without Context* 13 (available on http://www.mcdonald.cam.ac.uk/IARC/cwoc/issue13/schoyen.htm, accessed September 18, 2005), 8–11.
—— 2004 'Akademisk hvitvasking?', *Morgenbladet*, 1–7 October, 2004 (reply to Schmidt and Fosse).
Prott, L. V. & P. J. O'Keefe 1984 *Law and the Cultural Heritage, Vol. 1—Discovery & Excavation*, Abingdon.
—— 1989 *Law and the Cultural Heritage. Vol. 3—Movement*, London.
—— 1992 "'Cultural Heritage' or 'Cultural Property'?", *International Journal of Cultural Property* 1, 307–319.
Prott, L. V. 1995 'National and international laws on the protection of the cultural heritage', in *Antiquities. Trade or Betrayed. Legal, ethical and conservation issues*, K. Walker Tubb (ed.), London, 57–66.
Puglisi, S. M. 1963 'Preliminary report on the researches at Hazar Sum (Samangan)', *East and West*, 14, 3–12.
Rapin, C. 1992 'Fouilles d'Aï Khanoum VIII. La Trésorie du palais hellénistique d'Aï Khanoum', *MDAFA* XXXIII, Paris.
Renfrew, C. 2001 *Loot, Legitimacy and Ownership*, London.
Rolin-Jaequemyns, G. 1875 *Examen de la Déclaration de Bruxelles de 1874*, Institut de Droit International, 30 August, rapport.
Rosenfield, J. M. 1967 *The Dynastic Arts of the Kushans,* Berkeley.
Rottenberg, H. 1999 *Meesters, Marodeurs. De lotgevallen van de collectie Chardzjiëv*, Amsterdam.
Rowland, B. 1938 *The Wall-Paintings of India, Central Asia and Ceylon*, Boston.
Rowland B. & F. M. Rice 1971 *Art in Afghanistan*, London.
Rowland, Jr. B. 1938 *Buddha and the Sun God*, Zalmoxis.
Saikal A. & R. Thakur 2001 'Vandalism in Afghanistan and No One to Stop it', *The International Herald Tribune*, 6 March 2001, (available on http://www.unu.edu/hq/ginfo/media/Thakur38.html).
Salomonsen, R. 1999 *Ancient Buddhist Scrolls from Gandhara. The British Library Kharosthi fragments*, Seattle.

Samar, S. & N. Nadery 2005, 'Afghanistan. A cry for justice', *The International Herald Tribune*, February 3, 2005 (available on http://www.iht.com/articles/2005/02/02/opinion/edsamar.php, accessed December 10, 2005).
Sanogo, K. 1999 'The Looting of Cultural Material in Mali', *Culture Without Context*, 4, Spring.
Sarianidi, V. 1971 'North Afghanistan in the bronze period', *Afghanistan* 24, 2–3, 26–38.
—— 1977 'Bactrian Centre of Ancient Art', *Mesopotamia*, 12, 97–110.
—— 1985 *Bactrian Gold. From the Excavations of the Tillya-Tepe Necropolis in Northern Afghanistan*, Leningrad.
Sax J. L. 1999 *Playing Darts with a Rembrandt. Public and Private Rights in Cultural Treasures*, Ann Arbor.
Schaffer, J. G. 1978 'The later prehistoric periods', in *The Archaeology of Afghanistan*, F. R. Allchin & N. Hammond (eds.) 71–86.
Schlumberger, D. 1983 M. Le Berre & G. Fussman, 'Surkh Kotal en Bactriane', *MDAFA* XXV, Paris.
Schmidt, R. & L. M. Fosse 2004 Afghanske antikviteter og ulovlig handel. *Morgenbladet*, September, 2004 (comment article), 24–30.
Schwartz, D. M. 1998 'Environmental Terrorism. Analyzing the Concept', *Journal of Peace Research*, 35, July, 483–496.
Schwarz, B. 2004 *Hitlers Museum*, Wien, Köln, Weimar.
Scott, J. B. (ed.) 1918 *The Hague Conventions and Declarations of 1899 and 1907*, New York.
Seligman, T. K. 1996 'What values in surplus cultural property?', in *Legal Aspects of International Trade in Art*, M. Briat & J. A. Freedberg (eds.), International Sales of Works of Art 5, The Hague, 131–133.
Sengupta, A. & D. Das 1991 *Gandhara Holdings in the Indian Museum. A handlist*, Calcutta.
Shanks, H. 2002a '"The Dead Sea Scrolls of Buddhism"', *Biblical Archaeological Review* 28, 5, 31.
—— 2002b 'Scrolls, Scripts & Stela', *Biblical Archaeological Review* 28, 5, 24–34, 68.
Shuzhong, H. 2001 'Illicit Excavation in Contemporary China', in *Trade in Illicit Antiquities. The Destruction of the World's Archaeological Sites*, N. Brodie, J. Doole, & C. Renfrew (eds.), Cambridge.
Sidky, H. 2000 *The Greek Kingdom of Bactria. From Alexander to Eucratides the Great. Lanham*, New York, Oxford.
Siehr, K. 'The Protection of Cultural Heritage and International Commerce', *International Journal of Cultural Property*, Vol. 6, 304–325.
Sims-Williams, N. & J. Cribb 1996 'A new Bactrian inscription of Kanishka the Great', *Silk Road Art and Archaeology* 4, 75–142.
Sims-Williams, N. 2001 *Bactrian Documents from Northern Afghanistan. Legal and Economic Documents*, Oxford.
Singh, U. 2004 *The Discovery of Ancient India. Early archaeologists and the beginnings of archaeology*, New Delhi.
Smith, L. 2004 *Archaeological theory and the politics of cultural heritage*, London.
Sourdel-Thomine, J. 2004 *Le Minaret Ghouride de Jam. Un chef d'oeuvre du XII^e^ siècle.* Mémoires de l'Académie des Inscriptions et Belles Lettres 29, Paris.
SPACH Newsletters. *Society for the Protection of Afghanistan's Cultural Heritage*, Islamabad.
Staley, D. P. 1993 'St. Lawrence Island's Subsistence Digger. A New Perspective on Human Effects on Archaeological Sites', *Journal of Field Archaeology* 20, 3, 347–355.
Staviskij, B. Ja. 1986 *La Bactriane sous les Kushans. Problèmes d'histoire et de culture*, Paris.
Stavraki, E. 1996 *La Convention pour la Protection des Biens Culturels en cas de Conflit Armé*, Athens.
Stovel, H. 1998 *Risk Preparedness. A Management Manual for World Cultural Heritage*, Rome.

Talley Stewart, R. 1973 *Fire in Afghanistan 1914–1929*, New York.
Tarzi, Z. 1977 *L'architecture et le décor rupestre des grottes de Bamiyan*, 2 vols., Paris.
—— 2003 'Bamiyan: Survey and Excavation Archaeological Mission 2003', *The Silkroad Foundation Newsletter*. (available on http://www.silkroadfoundation.org/newsletter/december/bamiyan.htm)
—— 2003 'A la recherche du bouddha couché', *Les Nouvelles de Kaboul* 12, 7.
Tarzi, Z. & A. W. Feroozi 2004 'The Impact of War upon Afghanistan's Cultural Heritage', *AIA Publications*, Washington D.C. (available on http://www.archaeological.org/pdfs/papers/AIA_Afghanistan_address_lowres.pdf).
Thoden van Velzen, D. 1996 'The world of Tuscan tomb robbers. Living with the local community and the ancestors', *International Journal of Cultural Property* 5, 1, 111–126.
Thomas, D. C., G. Pastori & I. Cucco 2004 'Excavations at Jam. Afghanistan', *East and West* 54, 87–119.
—— 2005 'The Minaret of Jam Archaeological Project (MJAP)', *Antiquity* On-line Project Gallery, March 2005 (available on http://antiquity.ac.uk/ProjGall/thomas/index.html).
Thornes, R. 1995 *Protecting Cultural Objects through International Documentation Standards*, The Getty Art History Information Program, Santa Monica.
Tissot, F. 2002 *Kaboul, le Passé Confisqué*, Paris.
Toft, M. 2004 'Kulturdepartementet rører ikkje Schøyen-samlinga', *Uniforum*, September 10, 2004 (Internet edition only, available on http://wo.uio.no/as/WebObjects/avis.woa/wa/visArtikkel?id=17763&del=uniforum, accessed September 18, 2005).
Toman, J. 1994 *La Protection des Biens Culturels en Cas de Conflit Armé. Commentaire de la Convention de la Haye du 14 mai 1954*, Paris.
—— 1996 *The Protection of Cultural Property in the Event of Armed Conflict*, Aldershot/Paris.
Tosi, M. & R. Wardak 1972 'The Fullol Hoard. A new find from Bronze Age Afghanistan', *East and West*, 22, 9–17.
Tubb, K. Walker & N. Brodie 2001 'From museum to mantelpiece. The antiquities trade in the United Kingdom', in *Destruction and Conservation of Cultural Property*, R. Layton, P. G. Stone & J. Thomas (eds.), One World Archaeology 41, London, 101–116.
UNESCO 1954 *Convention for the Protection of Cultural Property in the Event of Armed Conflict*. UNESCO, Paris.
—— 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. UNESCO, Paris.
—— 1992–2001 *History of Civilizations in Central Asia*, 5 vols., Paris.
—— 1995 *Informations sur la Mise en Oeuvre de la Convention pour la Protection des Biens Culturels en cas de conflit armé. Rapports de 1995*, Paris.
—— 2002 'Kabul Museum. Keeping Afghanistan's Culture Alive', *The New Courier*, 1, October 2002, (available on http://portal.unesco.org/en/ev.php-URL_ID=6650&URL_DO=DO_TOPIC&URL_SECTION=201.html).
UNIDROIT 1995 *UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects*. UNIDROIT, Rome.
Valland, R. 1997 *Le front de l'Art. Défense des collections françaises 1939–1945*, Paris.
Van Krieken-Pieters, J. 2000 'De bescherming van Afghanistans culturele erfgoed—Idealisme of werkelijkheid?', *Boekmancahier* 46, 374–385.
—— 2000 'The Buddhas of Bamiyan. Challenged witnesses of Afghanistan's forgotten past', *Newsletter of the International Institute for Asian Studies* 23 (available on http://www.iias.nl/iiasn/23/index.html, accessed September 18, 2005), 14.
—— 2001 'The Buddhas of Bamiyan and beyond, the quest for an effective protection of cultural property', Seminar publication: *Bamiyan. Challenge to World Heritage*, New Delhi, 206–229.

—— 2002 'Afghanistan's Shattered Cultural Heritage. Hope for Reconstruction?', in *La Tutela del Patrimonio Culturale in Caso di Conflitto*, F. Maniscalco (ed.), collana monografica "Mediterraneum. Tutela e valorizzazione dei beni culturali ed ambientali", vol. 2, Napoli, 305–316.

—— 2003 'Boeddhistische kunst in Afghanistan. Opkomst, neergang en wedergeboorte?', *Kwartaalblad Boeddhisme* 31, 48–52.

—— (in press) 'Afghanistan's Cultural Heritage: An Exceptional Case?', in '*Archaeology, Cultural Heritage, and the Trade in Antiquities*', Brodie, N. J., Kersel, M., Luke, C. & K. W. Tubb (eds.), Gainesville, Florida.

Van Krieken P. J. & D. McKay, (eds.) 2005 *The Hague. Legal Capital of the World, The Hague*, Cambridge.

Varoli, J. 2001 'Rape of the Greek Crimea', *The Art Newspaper*, October.

Vercellin, G. 1976 'The Identification of Firuzkuh. A Conclusive Proof', *East and West*, 26, 337–40.

Verri, P. 1985 'The condition of cultural property in armed conflict. From Antiquity to World War II', *International Review of the Red Cross* 246, 129.

Veuve, S. 1987 'Fouilles d'Aï Khanoum VI. Le Gymnase. Architecture, céramique, sculpture', *MDAFA* XXX, Paris.

Vogel, J. Ph. 1972 *Indian Serpent-lore or the Nagas in Hindu Legend and Art,* reprint (London, 1926) Varanasi.

Vogelsang, W. 2002 *The Afghans*, Oxford.

Warikoo, K. (ed.) 2002 *Bamiyan: Challenge to World Heritage*, New Delhi.

Warren, K. J. 1989 'A philosophical Perspective on the Ethics and Resolution of Cultural Property Issues', in *The Ethics of Collecting Cultural Property. Whose Culture? Whose Property?*, P. M. Messenger (ed.), Albuquerque, 1–25.

Watson, O. 2004 *Ceramics from Islamic Lands*, London.

Watts, J. M. Jr. & M. E. Kaplan 2000 *Fire Safety Codes and Heritage Preservation*, NPS Training Manual, U.S. National Park Service, Washington D.C.

—— 2001 'Fire Risk Index for Historic Buildings', *Fire Technology*, 37, 2, 165–178.

Wescher, P. 1988 *I Furti d'Arte. Napoleone e la nascita del Louvre*, Torino.

Westing, A. H. (ed.) 1990 *Releasing Dangerous Forces in an Industrialized World*, London.

Williams, S. A. 1977 'The Polish Art Treasures in Canada: 1940–1960', *Canadian Yearbook of International Law*, 15.

Wylie, A. 2000 'Ethical Dilemmas in Archaeological Practice. Looting, Repatriation, Stewardship, and the (Trans)formation of Disciplinary Identity', in *Ethics in American Archaeology*, M. J. Lynott & A. Wylie, second revised ed. Society for American Archaeology, Washington D.C., 138–157.

Xuan Zang (Hsuan-tsang) 1884 (transl. by S. Beal) *Si-Yu-Ki: Buddhist Records of the Western World*, 2 vols, London.

Yamada, M. 2002 'Buddhism of Bamiyan', *Pacific World. Journal of the Institute of Buddhist Studies* Third series 4 (available on http://www.shin-ibs.edu/pdfs/pwj3–4/07YM4.pdf, accessed September 18, 2005), 109–122.

Zwalf, W. 1979 *The Shrines of Gandhara*, London.

—— 1996 *A Catalogue of the Gandhara Sculpture in the British Museum*, 2 vols. London.

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